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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Samuel L. Johnson, Administrative Law Judge

Appellate Case No. 2026-000947

South Carolina Department of Insurance,

Respondent,

v.

Joyce Freeman,

Appellant.

RECORD ON APPEAL
VOLUME II

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SCDOI V. FREEMAN

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Insurance,

Petitioner,

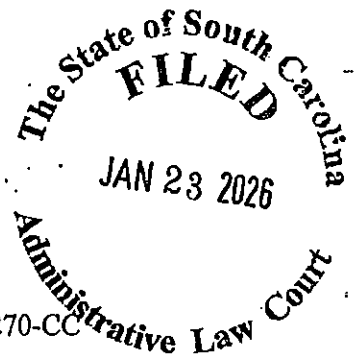
vs.

Joyce Freeman,

Respondent.

Docket No.: 25-ALJ-09-0270-CC

**RESPONDENT JOYCE FREEMAN'S
RESPONSE IN OPPOSITION TO
SCDOI'S MOTION FOR SUMMARY
JUDGMENT**



Respondent Joyce Freeman, pursuant to Rule 19 of the Administrative Law Court Rules and Rule 56 of the South Carolina Rules of Civil Procedure, hereby offers this response to the Motion for Summary Judgment (the "Motion") filed by the South Carolina Department of Insurance (the "Department") on January 9, 2025. For the reasons stated herein, the Department's interpretation of S.C. Code Ann § 38-53-170(e) is incorrect as a matter of law, and the Court should grant summary judgment to Freeman and vacate the Department's determination and the \$25,000 fine imposed on Freeman.

I. The Court Should Disregard and Strike Exhibits 1, 2, 3, and 7 Attached to the Department's Motion.

As a preliminary matter, Freeman observes that attached to the Department's Motion were a number of exhibits—notably Exhibit 1 (Affidavit of Mark Keel), Exhibit 2 (Affidavit of Ricky Hill), Exhibit 3 (a collection of historical news articles), and Exhibit 7 (a memorandum purportedly transmitted to Ms. Freeman and others regarding the Department's Order No. 2024-07 and its interpretation of § 38-53-170(e))—which should be disregarded and struck by the Court for three reasons.

First, the Department never produced these documents during discovery in this case. On October 10, 2025, Freeman served a first set of discovery requests on the Department, to include interrogatories and requests for production of documents. *See Exhibit A.* The interrogatories asked

the Department to “[g]ive the names and addresses of persons known to SCDOI or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses”; “[s]et forth a list of photographs, plats, sketches or other prepared documents in possession of SCDOI that relate to the claim or defense in the case”; and “[f]or each person known to SCDOI or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform Respondent of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.” The requests for production, in turn, requested that the Department produce, among other things, “all documents, communications, and other records in your possession, custody or control relating to the subject matter of this case, along with any supporting documents and attachments thereto.”

The Department responded to these requests on November 12, 2025. *See Exhibit B.* The responses interposed lengthy objections to the standard interrogatories in South Carolina, and then identified three potential witnesses in this case: Michael Beauford, a Special Investigator with the Department; Andrea Burgoin, a Program Manager with the Department; and “Myra Dyer or other available representative with the Lexington County Clerk of Court.” The responses indicated that no written statements had been taken from these witnesses, and provided very brief descriptions of their relevant knowledge, which was limited to the investigation in this case, the licensing requirements for surety bondsmen, and the “court’s role in the bonding process,” respectively. The Department also produced a number of documents in response to Freeman’s requests (again, after interposing lengthy objections); but those documents included only correspondence and orders related to this case, documents sent and received by the Department during its investigation of this case, the Department’s Order No. 2024-07 providing its position on the interpretation of S.C. Code

Ann § 38-53-170(e), and the opinions of the South Carolina Attorney General concerning the interpretation of § 38-53-170(e).

Nowhere in the Department's document production did it include the documents comprising Exhibits 1, 2, 3, and 7 attached to the Motion, and at no time did the Department identify Messrs. Keel and Hill as witnesses in this case. Likewise, the Department's Pre-Hearing Statement filed on October 23, 2025 listed as its witnesses Mr. Beauford, Ms. Burgoin, and a "Representative from Lexington County Clerk of Court." The exhibits proposed by the Department in its Pre-Hearing Statement included only the Department's Order No. 2024-7; correspondence from Freeman's former attorney to the Department; and bail proceeding forms, promissory notes, payment agreements, and statements of charges for the bonds at issue in this case.

The South Carolina Administrative Law Court Rules plainly provide that "[u]nless otherwise provided by law, all discovery shall be completed within ninety (90) days of the date of the Notice of Assignment." SCALC Rule 21(A). The Notice of Assignment in this case was dated and filed on September 10, 2025; thus, discovery in this case concluded on December 9, 2025. Moreover, Rule 26(e), SCRCF provides that "requests for discovery under Rules 31, 33, 34, and 36 shall be deemed to continue from the time of service until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers have been submitted, shall be promptly transmitted to the other party."

The Department did not even attempt to comply with these rules of discovery. Notably, SCALC Rule 21(A) provides that "[u]pon motion for good cause shown or upon his own motion, discovery may be expanded or curtailed by the administrative law judge." The Department never moved to reopen discovery under this Rule, nor did it ever supplement its discovery responses to identify these witnesses and additional documents upon which it now attempts to rely in its Motion.

Rather, it simply attached these documents to its Motion with no prior notice or warning to Respondent and filed them on the day that both parties' summary judgment motions were due. This is improper, and the Court should strike and disregard these documents for this reason alone. See *Scott v. Greenville Housing Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003) ("The gist and gravamen of the discovery rules mandate full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either party."); *Parr v. Gaines*, 309 S.C. 477, 482, 424 S.E.2d 515, 519 (Ct. App. 1992) ("A trial court has broad discretion in excluding evidence as a sanction for not complying with discovery procedures."); *McGaha v. Mosley*, 283 S.C. 268, 277, 322 S.E.2d 461, 466 (Ct. App. 1984) ("To encourage compliance with discovery procedures, trial courts can impose sanctions on parties who violate the rules, including exclusion of witnesses whose identities have been withheld."); see also *Savannah Bank, N.A. v. Stalliard*, 400 S.C. 246, 253, 734 S.E.2d 1616, 165 (2012) (affirming trial court's denial of a belated request to enlarge the discovery period and noting that "[i]f Appellant believed he did not have sufficient time, Appellant should have promptly filed a motion seeking additional discovery time").

Second, and perhaps more importantly, these documents have no import to the decision before this Court, which is confined to the correct interpretation of S.C. Code Ann § 38-53-170(e). In that inquiry, this Court is the sole arbiter of what the statute means. See *Hock RH, LLC v. S.C. Dep't of Revenue*, 423 S.C. 208, 212, 813 S.E.2d 540, 542 (Ct. App. 2018) ("A question of statutory interpretation is one of law for the court to decide.") (quoting *Alltel Commc'ns, Inc. v. S.C. Dep't of Revenue*, 399 S.C. 313, 316, 731 S.E.2d 869, 870-71 (2012)). The Court performs this analysis by reading the words of the statute and ascertaining the intent of the Legislature. See *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the

courts are bound to give effect to the expressed intent of the legislature.”) (internal quotations omitted).

Reams of online news articles about criminal defendants committing crimes while out on bond have no bearing on the words of § 38-53-170(e) or the intent of the Legislature as expressed in those words.¹ Nor do the opinions of two individuals, not themselves members of the Legislature, telling this Court what a statute means and what the Legislature must have intended have any bearing on the Court’s inquiry in this case. If this kind of evidence was competent to demonstrate the Legislature’s intent in passing this statute, Respondent would have attached to its motion the affidavit of former Senator Harpootlian, who voted on this bill and recalls vividly the legislative discussions surrounding it. Suffice to say that Senator Harpootlian’s understanding and interpretation of § 38-53-170(e), and his recollection of the Legislature’s intent in enacting it, depart widely from the interpretation the Department has advanced in this case. But alas, the Court’s inquiry is constrained to the language of the statute and the tools of statutory construction.

Finally, the Court should exclude and disregard in their entirety the Affidavits of Messrs. Keel and Hill because their testimony is unfounded and improper. For one thing, their affidavits attempt to testify about the state of mind of members of the Legislature when they were passing Act 83, which is plainly outside these witnesses’ personal knowledge. *See* Rule 602, SCRE (“A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”). Second, these witnesses’ statements constitute inadmissible legal opinions, which courts routinely exclude from evidence even when

¹ Respondent submits that the Department’s transparent intent in attaching these articles to its Motion was to give the Court the impression that if it does not agree with the Department’s interpretation in this case, the result will be criminal defendants running amok and wreaking havoc in the community. This is not only completely irrelevant to the Court’s interpretation of the statute in this case, but also highly improper and factually incorrect for the reasons discussed *infra*.

they are offered by an expert. *See, e.g., Dawkins v. Fields*, 354 S.C. 58, 66, 580 S.E.2d 433, 437 (2003) (observing that “[i]n general, expert testimony on issues of law is inadmissible,” and excluding an expert’s affidavit because “the overwhelming majority of the affidavit is simply legal argument as to why summary judgment should be denied”). Here, Messrs. Keel and Hill are not proffered as experts—they are simply two individuals who think they know what the Legislature meant when it passed Act 83. But their opinions cannot be substituted for this Court’s sound judgment on the law, and their affidavits should be excluded and disregarded in their entirety.

II. The Department’s Interpretation of S.C. Code Ann. § 38-53-170(e) Is Incorrect as a Matter of Law.

The parties’ dispute about the correct interpretation of § 38-53-170(e) appears to come down to two key disagreements: the meaning of the word “however” in the context of the statute, and the scope and effect of the payment agreement provisions contained in the statute. Respondent will address each of these arguments in turn.

A. In the context of § 38-53-170(e), the word “however” operates as an exception to the preceding language.

The Department argues that the prevailing definition of the word “however” is “in whatever manner or way, nevertheless or notwithstanding.” Dep’t Motion at 12. In support, it cites a case from Georgia, *Pilot Life Insurance Co. v. Morgan*, 94 S.E.2d 765 (Ga. App. 1956). That case was an insurance coverage dispute that interpreted the following language contained in an exclusion to coverage: “No payment of any kind shall be made for injuries, death, or any other loss caused, wholly or partly, directly or indirectly, by . . . Hernia of any kind, *however* caused.” *Id.* at 767 (emphasis added). Construing this language, the court found that “[t]he word ‘however’ *used in this context* in the exclusion clause bears its usual and ordinary meaning, and is defined by every

reputable dictionary to mean “in whatever manner, way, or state; by whatever means.” *Id.* at 769 (emphasis added).

Respondent concedes that, when the word “however” is used in that manner, it does indeed mean “in whatever manner or way.” *See However*, def. 1a, Merriam-Webster’s Dictionary (online edition 2026; available at <https://www.merriam-webster.com/dictionary/however>) (“in whatever manner or way that”). The word “however” in this context is clearly employed as an adverb modifying the word that immediately follows it. *See id.* (providing as an example in usage: “I shall serve you, sir, truly, *however* else”).

However, Respondent submits that when the word “however” appears at the beginning of a sentence followed by a comma, as it does in this sentence, it means “but” or “in spite of that” or “on the other hand.” *See However*, def. 2, Merriam-Webster’s Dictionary (online edition 2026; available at <https://www.merriam-webster.com/dictionary/however>) (“in spite of that : on the other hand”); *see id.* (providing as an example in usage: “would like to go; *however*, I think I’d better not”). The Department concedes this alternative and prevalent use of the word in its own definition of “however” because it includes the words “nevertheless” and “notwithstanding” in its definition. *See Nevertheless*, Merriam-Webster’s Dictionary (online edition 2026; available at <https://www.merriam-webster.com/dictionary/nevertheless>) (“in spite of that : HOWEVER”); *Notwithstanding*, Merriam-Webster’s Dictionary (online edition 2026; available at <https://www.merriam-webster.com/dictionary/notwithstanding>) (“in spite of what has just been said or expressed : NEVERTHELESS, HOWEVER”).

Plainly, the use of the word “however” in the context of § 38-53-170(e) follows this second definition. The word begins a new paragraph and is followed by a comma, and there is no verb immediately following it to modify. And employing the definition “in whatever manner or way”

would make no sense in this context because what follows the word “however” is a lengthy description of the payment agreement process. Used in this way, the only rational construction of the word “however” in § 38-53-170(e) is that the words following it were intended to create an exception to the words immediately preceding it. See *In re Vincent*, 333 S.C. 233, 235–36; 509 S.E.2d 261, 262 (1998) (“[I]n construing a statute, the Court must give clear and unambiguous terms their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute’s operation.”) (citing *Gilstrap v. S.C. Budget & Control Bd.*, 310 S.C. 210, 423 S.E.2d 101 (1992)). The South Carolina Attorney General concluded as much when he read this statute. See *The Honorable B. Lee Miller*, Op. S.C. Att’y Gen., 2024 WL 3186557 (July 17, 2024) (“[T]he Legislature appears to have modified this [minimum 10%] requirement by also including the language allowing a bondsman to enter into a payment agreement with the principal starting with the use of the term “However”—a term of contradiction.”). And, the extensive examples offered by the Department of the statutory use of the word “however” contained in footnote 13 of its Motion all comport with this use of the word “however.” See, e.g., S.C. Code Ann. § 38-53-102 (“Notwithstanding any other provision of law, the department must suspend for a period of five years the license of a bail bondsman, his associates, affiliates, or runners who refer defendants to attorneys. *However*, nothing contained in this section shall be construed to prohibit a bail bondsman, his associates, affiliates, or runners from indicating to a defendant that he should contact an attorney for professional assistance, as long as the bail bondsman, his associates, affiliates, or runners do not mention or in any other manner suggest or indicate a particular attorney or law firm by name.”) (emphasis added).

Respondent submits that the Department’s interpretation of the word “however” in the context of § 38-53-170(e) is precisely the kind of forced and awkward construction that our courts

prohibit. It defies the plain and ordinary meaning of the word in order to reach a result that is illogical in the context of the statute, and the Court should reject the Department's interpretation.

B. The Department misinterprets the scope and effect of the payment agreement provisions in § 38-53-170(e).

At the heart of the Department's interpretation of S.C. Code Ann. § 38-53-170(e) is a logical fallacy and fundamental misinterpretation of the statute. The Department's position appears to be that, if Respondent's reading is correct, the only practical effect of the 2023 amendments to the statute would be to increase the minimum payment on a surety bond from \$25 to \$100. *See* Dep't Motion at 17 ("If the General Assembly's intent was to increase the minimum fee to a flat \$100, all it had to do was strike 'twenty-five dollars' and insert 'one hundred dollars.'"). This reading of the statute completely ignores the payment agreement provisions, how they operate, and the consequences for a criminal defendant who violates them.

As Respondent observed in her opening brief, the payment agreement provisions of § 38-53-170(e) offer a comprehensive procedure for ensuring that a criminal defendant meets his obligation to pay the minimum 10% premium required by the statute. If the bondsman elects to enter into a payment agreement with the defendant, the statute provides that the payment agreement "may not be altered and must not exceed eighteen months after the date on which the bond was executed." § 38-53-170(e). The statute then sets out in detail what happens in the event payments are not timely made under the agreement, including that the bondsman must send a certified letter to the last known address of the principal demanding payment within ten days. *Id.* If the defendant fails after that time to bring his payments current, "*the bondsman must surrender the principal to the proper detention facility for holding.*" *Id.* (emphasis added). Thus, if the defendant fails in his obligation to make the payments required under the payment agreement, the result is not that he has a lien filed against his property, or that his car is repossessed, or that his

obligation gets turned over to a collection agency—the result is that he has bounty hunters out looking for him with a statutory obligation to *take him to jail*. Respondent submits that the lenders and banks of the world love to have this kind of recourse against their debtors. They do not, because the payment agreement requirements of § 38-53-170(e) are not merely a financial obligation owed to a bondsman—they are rather an obligation owed to the state, which takes as its collateral the body of the defendant who fails to meet his obligations under the statute.²

But wait, there's more. Once the bondsman surrenders the defendant to jail, the bondsman must “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.” § 38-53-170(e). Thus, not only is the defaulting defendant taken to jail for his failure to make timely payments on the required premium, but he also forfeits the right to have a payment agreement at all—the entire amount left owed on the payment agreement must be paid before the defendant can even think about getting re-released on bond. This provides yet more assurance that the defendant must pay the entire amount of the minimum 10% of the bond required by the statute rather than just the \$100 down payment required to form the payment agreement in the first place.

Thus, the payment agreement provisions in § 38-53-170(e) do not obviate the requirement that a criminal defendant pay a minimum of 10% of the bond in order to secure the bond, as the Department suggests—the statute instead gives the defendant *more time* to pay that required minimum, along with severe and immediate consequences if he fails to do so. For the reasons cited in Respondent's motion, there are sound policy reasons for doing that, including that it avoids any

² This is further evident from the requirement in § 38-53-170(e) that when a payment agreement is formed, the bondsman must “attach[] a statement of bondsman to the bond proceeding form,” thereby making the agreement part of the record in the defendant's criminal case.

conflict with the constitutional right to bail, *see* S.C. Const. art. I § 15, and ensures that defendants are not denied bail simply for an inability to pay.

In making its argument that § 38-53-170(e) requires a defendant to pay the full 10% premium up-front, the Department's Motion appears to suggest that the Legislature, in passing Act 83, actually intended to make it impossible for some criminal defendants to post a bond at all. But the Department's formulation of the statute would not serve to keep violent or dangerous criminals from achieving bail because the minimum payment provisions of § 38-53-170(e) do not depend upon the nature of the crime that was committed. Rather, the Department's formulation would serve only to keep incarcerated those criminal defendants who cannot afford to pay 10% of their bond immediately. The result would be our jails filled to the brim not with the most violent criminals, but with the poorest. That cannot be what the Legislature intended. *See Stone v. State (City of Orangeburg)*, 313 S.C. 533, 535, 443 S.E.2d 544, 545 (1994) ("This Court must avoid construing a statute so as to lead to an absurd result.") (citing *State v. Allen*, 314 S.C. 539, 431 S.E.2d 563 (1993)). And, of course, the decision whether to grant a defendant a bond in the first place falls to the court setting the bond, which must evaluate whether "release would constitute an unreasonable danger to the community." S.C. Code Ann. § 17-15-30(A). Put another way, the logical method of ensuring that a defendant does not commit further crimes while out on bond is by the court setting the bond with appropriate conditions, or by denying his release altogether. This goal is not accomplished by making the defendant's subsequent transaction with a bail bondsman prohibitively expensive.

Ultimately, the Department's reading of § 38-53-170(e) just does not make sense. As the Attorney General observed, it would be highly illogical for the Legislature to craft a comprehensive payment agreement structure, requiring the incarceration of a defendant who fails

to comply with his payment agreement, for only 5% of the face amount of the bond that the bondsman is not required to charge in the first place. The Department's Motion demonstrates the incomprehensibility of its interpretation by including the following illustration:

For example, a \$20,000 bond would require collection of \$2,000 minimum premium prior to execution, however, a bondsman could charge and collect premium up to \$3,000. In that instance, he or she would have the option to collect the \$2,000 statutory minimum plus a \$100 down payment and allow the principal to pay the remaining \$900 premium over the eighteen-month period following the date the bond was issued.

Dep't Mot. at 14 n.14. This illustration raises precisely the point Respondent made in her opening brief. Why would the Legislature craft the detailed payment agreement provision that it did if it was intended to apply only to a small (and potentially non-existent) portion of the premium? Why is the defendant required to pay an additional \$100 as a down payment after he has already paid 10% of the bond? And why would the Legislature require the incarceration of someone who fails to pay an optional 5% premium after he has already paid the required minimum 10%? The Department's illustration raises more questions than answers and demonstrates the absurdity of its position on this matter.

Respondent additionally observes that the entire point of securing a bond with a bail bondsman is for those defendants who cannot immediately satisfy the bond and require the financial assistance of a surety bondsman. Of note, S.C. Code Ann. § 17-15-15 provides that "in lieu of requiring actual posting of bond . . . 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 the bond set, which amount, when the defendant fulfills the condition of the bond, must be returned to the defendant by the clerk" If the Department is correct and § 38-53-170(e) requires the immediate payment of 10% of the bond to the bondsman, why would anyone use a surety bondsman in the first place? The defendant could, under § 17-15-15 and with the Court's assent,

post that same amount with the clerk of court and then get it back at the end of the case rather than paying that amount as a premium to the bondsman. The provisions of § 38-53-170(e) would be rendered entirely superfluous. Respondent submits that this is yet more evidence that the Department's interpretation is a forced construction that does not comport with the plain language of the statute or the Legislature's manifest intent in drafting it.

For all of these reasons, and those offered in Respondent's opening brief, the Department's interpretation is incorrect as a matter of law and violates the plain language of § 38-53-170(e), and it should be rejected by the Court. *See Jack's Custom Cycles, Inc. v. S.C. Dep't of Revenue*, 439 S.C. 35, 48, 885 S.E.2d 433, 440 (Ct. App. 2023) (courts will reject an agency's interpretation of a statute "where the plain language of the statute is contrary to the agency's interpretation").

III. The Department's Interpretation Violates the Plain Language of the Statute and Is Not Entitled to Deference.

The Department's Motion spills a good bit of ink discussing the recent jurisprudential developments in the law of deference to administrative agencies following the U.S. Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), as well as the South Carolina Court of Appeals' discussion of *Loper* in *Colonial Pipeline Co. v. S.C. Department of Revenue*, 443 S.C. 448, 905 S.E.2d 129 (Ct. App. 2024). This is certainly an interesting issue that will no doubt present itself in cases to come, but Respondent submits that under any formulation of the doctrine of deference to state agencies, the Department's interpretation of § 38-53-170(e) must fail because the Department's interpretation violates the plain language of the statute. *See Jack's Custom Cycles*, 439 S.C. at 48, 885 S.E.2d at 440; *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 77, 716 S.E.2d 877, 882 (2011) ("[W]e will reject an agency's interpretation if it conflicts with the statute's plain language."). S.C. Code Ann. § 38-53-170(e) is not silent on the specific issue before the Court, and Respondent submits it is not ambiguous,

either. But even if the Court were to find that the statute is ambiguous, the Department's interpretation should be rejected because it is manifestly contrary to the language of the statute and the Legislature's clear intent in enacting it. *See Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't'l Control*, 411 S.C. 16, 33, 766 S.E.2d 707, 717 (2014) ("If the statute or regulation 'is silent or ambiguous with respect to the specific issue,' the court then must give deference to the agency's interpretation of the statute or regulation, *assuming the interpretation is worthy of deference.*") (emphasis added). For the reasons stated *supra*, the Department's interpretation of § 38-53-170(e) is plainly erroneous and is entitled to no deference by this Court.

Respondent will note finally that "[i]n matters involving the assessment of penalties, the imposition of sanctions, or the enforcement of administrative orders, the agency shall have the burden of proof." SCALC Rule 29(B). This case does involve the assessment of penalties and sanctions against Respondent, and while the material facts of this case do not appear to be in dispute, Respondent submits that the Department cannot carry its burden in this matter because its determination was based upon a manifest error of law.

CONCLUSION

For these reasons, as well as those offered in her motion for summary judgment filed on January 9, 2026, Respondent Freeman submits that the Department's interpretation of S.C. Code Ann. § 38-53-170(e) is plainly erroneous, and its decision to impose a \$25,000 fine on Freeman was in error. Respondent respectfully requests that the Court grant summary judgment in Freeman's favor and vacate the Department's determination and the \$25,000 fine imposed on her.

[Signature on following page]

Respectfully submitted,



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January 23, 2026

Columbia, South Carolina.

SCDOI v. Joyce Freeman
25-ALJ-09-0270-CC

EXHIBIT A
(Freeman's First Set of Discovery Requests to SCDOI)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,

Petitioner,

vs.

Joyce W. Freeman,

Respondent.

Docket No.: 25-ALJ-09-0270-CC

**RESPONDENT'S FIRST
INTERROGATORIES TO PETITIONER**

**TO: SHANIKA J. MOORE AND CHARLES GWYNNE, ATTORNEYS FOR
PETITIONER SOUTH CAROLINA DEPARTMENT OF INSURANCE:**

Respondent Joyce W. Freeman, pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure and Rule 21 of the Administrative Law Court Rules, hereby requires Petitioner South Carolina Department of Insurance to answer the following interrogatories under oath and in writing on or before 30 days after service of this document request as required by Rule 33(a) of the civil rules.

Please take notice that the following instructions and definitions below are not boilerplate but were specifically drafted to explain the information sought and the way the rules require it be disclosed. You should expect Respondent to move the Court to compel disclosure and seek other appropriate relief if furnished with responses that interpose boilerplate objections or otherwise depart from what the civil rules require.

INSTRUCTIONS

Each interrogatory must be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection must be stated in lieu of an answer. You must serve a copy of the answers, and objections if any, within 30 days after the service of the

interrogatories. The answers are to be signed by the person making them, and the objections signed by the attorney making them. Rule 33(b), SCRPC.

"The grounds for objecting to an interrogatory must be stated with specificity." Rule 33(b)(4), SCRPC. "Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure." Id. Objections based on privilege must expressly make the claim and describe the nature of the information withheld in a manner that will allow the requesting party to assess the applicability of the privilege or protection. Rule 26(b)(5)(A), SCRPC.

Please note, Respondent takes the view that interposing nonspecific, boilerplate objections while also making a limited disclosure "subject to" those objections is inconsistent with your disclosure obligations under the rules and grounds to move the Court to waive objections and compel disclosure.

Pursuant to Rule 26(e) of the South Carolina Rules of Civil Procedure, you are under a duty to timely supplement your answers.

DEFINITIONS

1. As used in these requests, "person" shall include natural persons, proprietorships, corporations, public corporations, municipal corporations, state governments, local governments, governmental agencies, political subdivisions, partnerships, groups, associations or other business or public organizations.

2. To "identify" a document means to state the date of the document, its author, each person to whom the document or any copy thereof was sent, and every person having custody of the document or a copy thereof. Where the name or identity of a natural person is requested, please state the individual's full name, home and business addresses, and home and business telephone

numbers. Where the name or identity of an organization is requested, please state the organization's full name, business address and business telephone number.

3. The term "and" shall include the term "or."

4. The term "or" shall include the term "and."

5. The terms "relating to," "with respect to," and "refer to" shall mean embodying, containing, comprising, indicating, concerning, referring, identifying, describing, discussing, involving, evidencing or otherwise pertaining to.

6. Unless specifically stated to the contrary, all words and phrases utilized here shall be given their ordinary, dictionary, and common-sense definitions. Additionally, unless another meaning is obvious from the context, the terms used here shall have the same meaning as they have in the Complaint in this action.

7. "Communications" means the transmittal of oral or written information, facts, or ideas, including, without limitation, communications in the form of any discussion, conversation, inquiry, negotiation, agreement, understanding, meeting, telephone conversation, letter, correspondence, note, memorandum, email, text message, instant message, telegram, advertisement, or other form of exchange of words, whether oral or written.

8. "Documents" or "document" shall have the broadest meaning permitted under Rules 26 and 34 of the South Carolina Rules of Civil Procedure and include, without limitation, all writings of any nature whatsoever (including, specifically, all drafts), whether originals or copies, including all non-identical copies (whether different from the original because of notes made on or attached to them or otherwise), whether drafts, preliminary, proposed or final versions, whether printed, recorded, produced or reproduced by any other mechanical or electronic process, whether written or produced by hand, within your possession, custody or control, including

without limitation, contracts, agreements, arrangements, understandings, communications, including intra-office communications, intra-department communications, correspondence, telegrams, records, reports, studies, memoranda (including memoranda of telephone, personal, intra-office or intra-department conversations and memoranda of conferences, notes, advertisements, notices, telex and facsimile communications), telephone bills and records, cables, books, diaries, appraisals, forecasts, statistical statements, accountants' work papers, graphs, summaries, lists, tabulations, calendars, charts, maps, diagrams, blueprints, tables, indices, pictures, recordings, tapes, microfilms, charges, accounts, minutes, brochures, pamphlets, circulars, trade letters, press releases, stenographic, handwritten or any other notes, projections, working papers, checks, check stubs, receipts, invoice vouchers, tape data sheets or data processing cards or disks, magnetic tapes, disks, drums, promotional devices, or any other document or writings of whatever description, including, without limitation, CD-ROMS, emails, instant messages, text messages and any information contained in any computer or memory system, although not yet printed out, or any material underlying, supporting or used in the preparation of any such documents. "Documents" or "document" includes ESI.

9. "ESI" means electronically stored information, electronically stored data or electronic data, and is to be interpreted broadly to include all types of information, regardless of the storage media (*e.g.*, hard drive, CD-ROM, DVD, disc, tape, thumb drive, etc.), that requires a computer or other machine to read or process it.

10. "You" or "SCDOI" means Petitioner South Carolina Department of Insurance and each of its employees, representatives, attorneys, and agents acting on its behalf.

INTERROGATORIES

1. Give the names and addresses of persons known to SCDOI or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of SCDOI that relate to the claim or defense in the case.

3. List the names and addresses of any expert witnesses whom SCDOI proposes to use as a witness at the trial of the case.

4. For each person known to SCDOI or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform Respondent of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

Respectfully submitted,



Richard A. Harpootlian (S.C. Bar No. 2725)
Andrew R. Hand (SC Bar No. 101633)
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Attorneys for Respondent Joyce W. Freeman

October 10, 2025
Columbia, South Carolina.

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,

Petitioner,

vs.

Joyce W. Freeman,

Respondent.

Docket No.: 25-ALJ-09-0270-CC

**RESPONDENT'S FIRST REQUESTS
FOR PRODUCTION TO PETITIONER**

**TO: SHANIKA J. MOORE AND CHARLES GWYNNE, ATTORNEYS FOR
PETITIONER SOUTH CAROLINA DEPARTMENT OF INSURANCE:**

Respondent Joyce W. Freeman, pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure and Rule 21 of the Administrative Law Court Rules, hereby requires Petitioner South Carolina Department of Insurance to make available certain documents, tangible things, and electronically stored information (ESI) specified below for copying, photographing, inspecting, or measuring on or before 30 days after service of this document request as required by Rule 34(b) of the civil rules.

Please take notice that the following instructions and definitions below are not boilerplate but were specifically drafted to explain the information sought and the way the rules require it be disclosed. You should expect Respondent to move the Court to compel disclosure and seek other appropriate relief if furnished with responses that interpose boilerplate objections or otherwise depart from what the civil rules require.

INSTRUCTIONS

You are required to respond to each request in writing and to serve a copy of your responses, along with copies of all responsive documents, upon counsel for the Intervenor. Every request for production shall be deemed continuing, and the answers are to be supplemented

promptly, if relevant information is obtained in addition to, or in any way inconsistent with, the initial answer to any such request for production.

In responding to these document requests, produce all documents available to you or subject to your reasonable access or control, including but not limited to all documents available to your counsel in this case, or any experts. In producing documents, you are required to produce each document requested together with all non-identical copies and drafts of that document. If the original of any document cannot be located, a copy shall be provided in lieu thereof and shall be legible and bound or stapled in the same manner as the original.

If any requested document is not or cannot be produced in full, you are required to produce it to the extent possible, indicating which document, or portion of that document, is being withheld and the reason that document is being withheld.

Documents shall be produced as they are kept in the usual course of business or organized and labeled to correspond to the categories in this Request. Rule 34(b), SCRCPP. In making production of electronically stored information (ESI), including, without limitation, electronic data compilations, electronic email, or documents that are kept in electronic format (such as, without limitation, Microsoft Outlook, Microsoft Word, Microsoft Excel, Microsoft PowerPoint, or any similar program or platform), produced them in their native format along with all passwords necessary to access the documents. If you choose to process ESI prior to production, produce single page images along with an accompanying load file, full OCR text, and metadata. Native files should also be produced.

Documents attached to each other should not be separated. Documents not otherwise responsive to this Request shall be produced if such documents mention, discuss, refer to, or explain the documents that are called for by this discovery request, or if such documents are

attached to documents called for by this document request and constitute routing slips, transmittal memoranda, or letters, comments, evaluations, or similar materials.

Your response “shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to[.]” Rule 34(b), SCRCPP. If objections are made, they must be specifically stated as to the reason and the request. Id. If objection is made to the requested form or forms for producing ESI, you must state the form or forms you intend to use, which may include the form in which the ESI is customarily maintained (i.e., native files). See id.

Objections based on privilege must expressly make the claim and “describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.” Rule 26(b)(5)(A), SCRCPP.

Please note, Respondent takes the view that interposing nonspecific, boilerplate objections while also making a limited disclosure “subject to” those objections is inconsistent with your disclosure obligations under the rules and grounds to move the Court to waive objections and compel disclosure.

Pursuant to Rule 26(e) of the South Carolina Rules of Civil Procedure, you are under a duty to timely supplement your answers.

DEFINITIONS

1. As used in these requests, “person” shall include natural persons, proprietorships, corporations, public corporations, municipal corporations, state governments, local governments, governmental agencies, political subdivisions, partnerships, groups, associations or other business or public organizations.

2. To "identify" a document means to state the date of the document, its author, each person to whom the document or any copy thereof was sent, and every person having custody of the document or a copy thereof. Where the name or identity of a natural person is requested, please state the individual's full name, home and business addresses, and home and business telephone numbers. Where the name or identity of an organization is requested, please state the organization's full name, business address and business telephone number.

3. The term "and" shall include the term "or."

4. The term "or" shall include the term "and."

5. The terms "relating to," "with respect to," and "refer to" shall mean embodying, containing, comprising, indicating, concerning, referring, identifying, describing, discussing, involving, evidencing or otherwise pertaining to.

6. Unless specifically stated to the contrary, all words and phrases utilized here shall be given their ordinary, dictionary, and common-sense definitions. Additionally, unless another meaning is obvious from the context, the terms used here shall have the same meaning as they have in the Complaint in this action.

7. "Communications" means the transmittal of oral or written information, facts, or ideas, including, without limitation, communications in the form of any discussion, conversation, inquiry, negotiation, agreement, understanding, meeting, telephone conversation, letter, correspondence, note, memorandum, email, text message, instant message, telegram, advertisement, or other form of exchange of words, whether oral or written.

8. "Documents" or "document" shall have the broadest meaning permitted under Rules 26 and 34 of the South Carolina Rules of Civil Procedure and include, without limitation, all writings of any nature whatsoever (including, specifically, all drafts), whether originals or

copies, including all non-identical copies (whether different from the original because of notes made on or attached to them or otherwise), whether drafts, preliminary, proposed or final versions, whether printed, recorded, produced or reproduced by any other mechanical or electronic process, whether written or produced by hand, within your possession, custody or control, including without limitation, contracts, agreements, arrangements, understandings, communications, including intra-office communications, intra-department communications, correspondence, telegrams, records, reports, studies, memoranda (including memoranda of telephone, personal, intra-office or intra-department conversations and memoranda of conferences, notes, advertisements, notices, telex and facsimile communications), telephone bills and records, cables, books, diaries, appraisals, forecasts, statistical statements, accountants' work papers, graphs, summaries, lists, tabulations, calendars, charts, maps, diagrams, blueprints, tables, indices, pictures, recordings, tapes, microfilms, charges, accounts, minutes, brochures, pamphlets, circulars, trade letters, press releases, stenographic, handwritten or any other notes, projections, working papers, checks, check stubs, receipts, invoice vouchers, tape data sheets or data processing cards or disks, magnetic tapes, disks, drums, promotional devices, or any other document or writings of whatever description, including, without limitation, CD-ROMS, e-mails, instant messages, text messages and any information contained in any computer or memory system, although not yet printed out, or any material underlying, supporting or used in the preparation of any such documents. "Documents" or "document" includes ESI.

9. "ESI" means electronically stored information, electronically stored data or electronic data, and is to be interpreted broadly to include all types of information, regardless of the storage media (*e.g.*, hard drive, CD-ROM, DVD, disc, tape, thumb drive, etc.), that requires a computer or other machine to read or process it.

10. The terms “you” or “SCDOI” Petitioner South Carolina Department of Insurance and each of its employees, representatives, attorneys, and agents acting on its behalf.

DOCUMENT REQUESTS

Please produce the following documents:

1. Produce all documents, communications, and other records in your possession, custody or control relating to the subject matter of this case, along with any supporting documents and attachments thereto.
2. Produce all documents, communications, and other records in your possession, custody or control relating to the Respondent Joyce W. Freeman or Freeman Bail Bonds, LLC.
3. Produce all documents, communications, and other records in your possession, custody or control relating to SCDOI’s interpretation of S.C. Code Ann. § 38-53-170(e) from 2023 to the present.
4. Produce all documents, communications, and other records in your possession, custody or control relating to SCDOI’s policies and procedures regarding enforcement of S.C. Code Ann. § 38-53-170(e) from 2023 to the present.
5. Produce any communications or other documents exchanged between SCDOI and the South Carolina Attorney General’s Office regarding the interpretation of S.C. Code Ann. § 38-53-170(e) from 2023 to the present.
6. Produce any communications or other documents exchanged between SCDOI and any other government agency or third party regarding the interpretation of S.C. Code Ann. § 38-53-170(e) from 2023 to the present.
7. Produce any draft versions of, or communications or memoranda relating to, SCDOI Order No. 2024-07.

8. Produce the file of any other investigation, enforcement action, or proceeding for an alleged violation of S.C. Code Ann. § 38-53-170(e) or SCDOI Order No. 2024-07 from 2023 to the present.

Respectfully submitted,



Richard A. Harpootlian (S.C. Bar No. 2725)
Andrew R. Hand (SC Bar No. 101633)
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arh@harpootlianlaw.com

Attorneys for Respondent Joyce W. Freeman

October 10, 2025
Columbia, South Carolina.

EXHIBIT B
**(SCDOI's Responses to Freeman's First Set of
Discovery Requests)**

RECEIVED

NOV 17 2025

Richard A. Harpootlian, P.A.
Calendared

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,	)	DOCKET NO. 25-ALJ-09-0270-CC
	)	
Petitioner,	)	
	)	
vs.	)	PETITIONER'S RESPONSE
	)	TO RESPONDENT'S FIRST SET
Joyce Freeman,	)	OF INTERROGATORIES
	)	
Respondent.	)	
_____	)	

Petitioner, by and through undersigned counsel, responds to Respondent's First Set of Continuing Interrogatories as follows:

GENERAL STATEMENT

Petitioner's responses are based upon information presently available to it following a reasonable inquiry. Discovery is still ongoing, however, and Petitioner reserves the right to amend, supplement, or change its objections and responses if and when additional information becomes available.

GENERAL OBJECTIONS

1. Petitioner objects to all discovery requests to the extent they are overbroad, vague, ambiguous, unduly burdensome, and irrelevant to the subject matter of this litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.

2. Petitioner objects to Respondent's Interrogatories to the extent they seek the disclosure of information protected by the attorney-client privilege, and such information will not be disclosed.

3. Petitioner objects to Respondent's Interrogatories to the extent that they seek information prepared in anticipation of litigation or protected by the work-product doctrine, and such information will not be disclosed.

4. Petitioner objects to all discovery requests to the extent they call for information which is part of the public record, or which is otherwise equally available to all parties, or to which the propounding party has greater access as unduly burdensome, oppressive, at less cost, and unreasonable.

5. Petitioner objects to Respondent's Interrogatories to the extent they are served for harassment, oppression, or delay.

6. Petitioner objects to all discovery requests to the extent that they purport to impose duties and obligations, which exceed or are different than those imposed by the South Carolina Rules of Civil Procedure, the South Carolina Rules of Procedure for the Administrative Law Court, or Court orders in this action.

7. Petitioner objects to Respondent's Interrogatories to the extent that they exceed the permitted number as outlined in the South Carolina Rules of Civil Procedure and/or the South Carolina Rules of Procedure for the Administrative Law Court.

8. Each of the foregoing objections is hereby incorporated in each and every one of the following responses, whether or not they are specifically identified.

9. None of the objections or response contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials, or information, or the truth or accuracy of any statement or characterization contained in Respondent's Interrogatories. Petitioner's written responses are made without waiving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, or other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right to revise, correct, add, or clarify any of the responses provided herein.

10. Petitioner objects to any interrogatory that seeks information that is already in the Respondent's possession.

11. Petitioner objects to Respondent's Interrogatories to the extent that they purport to require Petitioner to provide contact information for individuals that are unknown to Petitioner.

12. Petitioner objects to Respondent's Interrogatories to the extent they seek confidential information, trade secrets, or privileged information.

RESPONSES TO RULE 33(b) STANDARD INTERROGATORIES

INTERROGATORY NO. 1

Give the names and addresses of persons known to SCDOI or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE TO INTERROGATORY NO. 1

Petitioner objects to this Interrogatory to the extent that it requests information protected by the attorney-client privilege, privacy laws, or work product doctrine. Petitioner objects to the Interrogatory to the extent that it is requesting information that is not relevant,

overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Respondent already has in its possession or would be able to obtain at a lower costs than the Petitioner. Furthermore, Petitioner objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Petitioner's counsel. Petitioner will designate their fact witnesses and the exhibits upon which they will rely in due course. Petitioner also objects to this interrogatory in that it is overbroad and unduly burdensome because Petitioner cannot be expected to know, nor are they obligated to determine, every piece of discoverable information possessed by the individuals. Petitioner also objects to this interrogatory to the extent it seeks information about which Petitioner has no personal knowledge. Discovery is continuing and Petitioner reserves the right to supplement their responses herein.

Subject to and without waiving the forgoing objections, Petitioner answer as follows:

- Michael Beauford, Special Investigator with the South Carolina Department of Insurance. No written or recorded statement has been taken from this witness;
- Andrea Burgoin, Program Manager /Individual Licensing with the South Carolina Department of Insurance. No written statement or recorded statement has been taken from this witness; and
- Myra Dyer or other available representative with the Lexington County Clerk of Court. No written or recorded statement has been taken from the witness.

INTERROGATORY NO. 2

Set forth a list of photographs, plats, sketches or other prepared documents in possession of SCDOI that relate to the claim or defense of the case.

RESPONSE TO INTERROGATORY NO. 2

Petitioner objects to this interrogatory in that it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Petitioner's counsel. Respondent will provide photographs, plans, sketches, and other prepared documents that relate to the claim and defense when available. None have been prepared at this stage of trial.

INTERROGATORY NO. 3

List the names and addresses of any expert witnesses whom SCDOI proposes to use as a witness at the trial of the case.

RESPONSE TO INTERROGATORY NO. 3

Petitioner objects to this interrogatory in that it calls for the designation of expert witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Petitioner's counsel. Petitioner objects to this Interrogatory as it is premature, but

expressly reserves its right to supplement, clarify, revise, or correct, and to assert additional objections in accordance with the time period for exchanging expert reports set by the Court.

Subject to and without waiving the forgoing objections, Petitioner answers as follows: Petitioner has not retained any expert witnesses at this time but specifically reserves the right to do so.

INTERROGATORY NO. 4

For each person known to SCDOI or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform Respondent of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE TO INTERROGATORY NO. 4

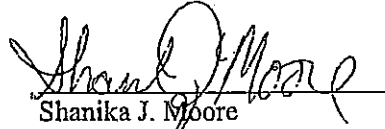
Petitioner objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, or work product doctrine. Petitioner objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Respondent already has in its possession or would be able to obtain at a lower costs than the Petitioner. Furthermore, Petitioner objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Petitioner's counsel. Petitioner will designate their fact witnesses and the exhibits upon which they will rely in due course. Petitioner also objects to this interrogatory in that it is overbroad and unduly burdensome because Petitioner cannot be expected to know, nor are they obligated to determine, every piece of discoverable information possessed by the individuals. Petitioner also objects to this interrogatory to the extent it seeks information about which Petitioner has no personal knowledge. Discovery is continuing and Petitioner reserves the right to supplement their responses herein.

Subject to and without waiving the forgoing objections, Petitioner answers as follows:

- Michael Beauford, Special Investigator with the South Carolina Department of Insurance. No written or recorded statement has been taken from this witness. Mr. Beauford will testify to the results of the investigation for SCDOI File Number 2025-7722;
- Andrea Burgoin, Program Manager I/Individual Licensing with the South Carolina Department of Insurance. No written statement or recorded statement has been taken from this witness. Ms. Burgoin will testify to the licensing requirements for producers and surety bondsman for the State of South Carolina; and

- Myra Dyer or other available representative with the Lexington County Clerk of Court. No written or recorded statement has been taken from the witness. Ms. Dyer will testify to her court's role in the bonding process.

RESPECTFULLY submitted this 12 day of November, 2025.



Shanika J. Moore
S.C. Department of Insurance
Associate General Counsel
S.C. Dept. of Insurance
1201 Main Street, Suite 1000
Columbia, SC 29201

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,	)	DOCKET NO. 25-ALJ-09-0270-CC
	)	
Petitioner,	)	
	)	
vs.	)	PETITIONER'S RESPONSE
	)	TO RESPONDENT'S FIRST
Joyce Freeman,	)	REQUESTS FOR PRODUCTION
	)	
Respondent.	)	
_____	)	

Petitioner, by and through undersigned counsel, responds to Respondent's First Requests for Productions as follows:

GENERAL STATEMENT

Petitioner's responses are based upon information presently available to it following a reasonable inquiry. Discovery is still ongoing, however, and Petitioner reserves the right to amend, supplement or change its objections and responses if, and when additional information becomes available.

GENERAL OBJECTIONS

Petitioner objects to each Request: (1) insofar as it calls for the production of documents not in Petitioner's possession, custody, or control; (2) insofar as it calls for the production of documents that were prepared for or in anticipation of litigation, constitute attorney work product, contain attorney-client communications, or are otherwise privileged; (3) insofar as it calls for the production of documents which are publicly available or otherwise equally available and/or uniquely available equally available from third parties; (4) insofar as it calls for the production of documents that do not specifically refer to the events which are the subject matter of this litigation; and (5) insofar as it calls for the production of documents which are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. The

inadvertent production or disclosure of any privileged documents or information shall not constitute or be deemed to be a waiver of any applicable privilege with respect to such document or information (or the contents or subject matter thereof) or with respect to any other such document or discovery now or hereafter requested or provided. Petitioner reserves the right not to produce documents that are in part protected by privilege, except on a redacted basis, and to require the return of any document (and all copies thereof) inadvertently produced. Petitioner likewise does not waive the right to object, on any and all grounds, to (1) the evidentiary use of documents produced in response to these requests; and (2) discovery requests relating to those documents. Petitioner submits these responses and objections without conceding the relevancy or materiality of the subject matter of any request or of any document, or that any responsive materials exist. Petitioner's responses and objections are not intended to be, and shall not be construed as, agreement with Petitioner's characterization of any facts, circumstances, or legal obligations. Petitioner reserves the right to contest any such characterization as inaccurate. Petitioner also objects to the Requests to the extent they contain any express or implied assumptions of fact or law concerning matters at issue in this litigation. The responses and objections contained herein are made on the basis of information now known to Petitioner and are made without waiving any further objections to or admitting the relevancy or materiality of any of the information requested. Petitioner's investigation, discovery and preparation for proceedings are continuing and all answers are given without prejudice to Petitioner's right to introduce or object to the discovery of any documents, facts or information discovered after the date hereof.

REQUESTS FOR PRODUCTION NO. 1

Produce all documents, communications, and other records in your possession, custody or control relating to the subject matter of this case, along with any supporting documents.

RESPONSE TO REQUEST FOR PRODCUTION NO. 1

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific. Plaintiff also objects to the extent that this request calls for the production of documents subject to attorney-client privilege, or the attorney work product doctrine. Plaintiff objects to this request on the ground that it seeks documents and information protected from disclosure by the South Carolina Code of Laws, including but not limited to S.C. Code Ann. §§ 38-13-70(B), 160. Petitioner objects to this request in that it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Petitioner's counsel.

Subject to and without waiving the forgoing objections, Petitioner will produce relevant, non-privileged documents that are responsive to this request as Attachment 1.

REQUEST FOR PRODUCTION NO. 2

Produce all documents, communications, and other records in your possession, custody or control relating to the Respondent Joyce W. Freeman or Freeman Bail Bonds, LLC.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific. Plaintiff also objects to the extent that this request calls for the production of documents subject to attorney-client privilege, or the attorney work product doctrine. Plaintiff objects to this request on the ground that it seeks documents and information protected from disclosure by the South Carolina Code of Laws, including but not limited to S.C. Code Ann. §§ 38-13-70(B), 160. Petitioner objects to this request in that it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Petitioner's counsel.

Subject to and without waiving the forgoing objections, Petitioner will produce relevant, non-privileged documents that are responsive to this request. All responsive documents disclosed in Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 3

Produce all documents, communications, and other records in your possession, custody or control relating to SCDOI's interpretation of S.C. Code Ann. § 38-53-170(e) from 2023 to the present.

RESPONSE TO REQUEST TO PRODUCTION NO. 3

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific. Plaintiff also objects to the extent that this request calls for the production of documents subject to attorney-client privilege, or the attorney work product doctrine. Plaintiff objects to this request on the ground that it seeks documents and information protected from disclosure by the South Carolina Code of Laws.

Subject to and without waiving the forgoing objections, Petitioner will produce relevant, non-privileged documents that are responsive to this request as Attachment 2.

REQUEST FOR PRODUCTION NO. 4

Produce all documents, communications, and other records in your possession, custody or control relating to SCDOI's policies and procedures regarding enforcement of S.C. Code Ann. §38-53-170(e) from 2023 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific. Plaintiff also objects to the extent that this request calls for the production of documents subject to attorney-client privilege or the attorney work product doctrine. Plaintiff objects to this request on the ground that it seeks documents and information protected from disclosure by the South Carolina Code of Laws.

Subject to and without waiving the forgoing objections, Petitioner answers as follows: There are no documents responsive to this request. Investigative processes and guidance follow applicable statutes:

S. C. Code Ann. § 38-2-10 (A)(2) (Supp. 2022)

S.C. Code Section 38-43-130(A)(C) (2) (2015)
S.C. Code Ann. §§ 38-53-150(A)(2) (2015)
S.C. Code Ann. §§ 38-53-170 (Supp. 2023)

REQUEST FOR PRODUCTION 5

Produce any communications or other documents exchanged between SCDOI and the South Carolina Attorney General's Office regarding the interpretation of S.C. Code Ann. §38-53-170(e) from 2023 to the present.

RESPONSE TO REQUEST FOR PRODUCTION 5

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific.

Subject to and without waiving the forgoing objections, Petitioner will produce relevant, non-privileged documents that are responsive to this request as Attachment 3.

REQUEST FOR PRODUCTION 6

Produce any communications or other documents exchanged between SCDOI and any other government agency or third party regarding the interpretation of S.C. Code. § 38-53-170(e) from 2023 to the present.

RESPONSE TO REQUEST FOR PRODUCTION 6

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific. Plaintiff also objects to the extent that this request calls for the production of documents subject to legislative privilege, deliberative process privilege, attorney-client privilege, or the attorney work product doctrine. Plaintiff objects to this request on the ground that it seeks documents and information protected from disclosure by the South Carolina Code of Laws.

Subject to and without waiving the forgoing objections, Petitioner will produce relevant, non-privileged documents that are responsive to this request. All responsive documents disclosed in Response to Request for Production No. 5.

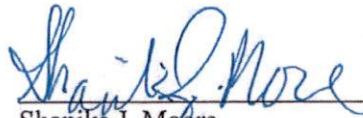
REQUEST FOR PRODUCTION 7

Produce any draft versions of, or communications or memoranda relating to, SCDOI Order No. 2024-07.

RESPONSE TO REQUEST FOR PRODUCTION 7

Plaintiff objects to this request as overly broad, unduly burdensome, vague, ambiguous, and not reasonably specific. Plaintiff also objects to the extent that this request calls for the production of documents subject to attorney-client privilege or the attorney work product doctrine. Plaintiff objects to this request on the ground that it seeks documents and information protected from disclosure by the South Carolina Code of Laws, including but not limited to the South Carolina Rule of Civil Procedure 26(b)(3),(34); Rule 1.6, South Carolina Rules of Professional Conduct; and Rule 407, South Carolina Appellate Court Rules.

RESPECTFULLY submitted this 15 day of November, 2025.



Shanika J. Moore
Associate General Counsel
S.C. Dept. of Insurance
1201 Main Street, Suite 1000
Columbia, SC 29201

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,

Petitioner,

vs.

Joyce Freeman,

Respondent.

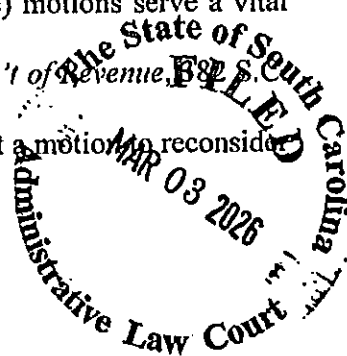
Docket No.: 25-ALJ-09-0270-CC

**RESPONDENT JOYCE FREEMAN'S
MOTION FOR RECONSIDERATION**

Respondent Joyce Freeman hereby moves pursuant to Rule 29 of the South Carolina Administrative Law Court Rules and Rule 59 of the South Carolina Rules of Civil Procedure for an order reconsidering and amending the Court's February 13, 2026 order granting summary judgment to Petitioner South Carolina Department of Insurance (the "Department") in this matter (the "Order").

LEGAL STANDARD

"A motion under Rule 59(e) long has been viewed as 'motion for reconsideration' despite the absence of those words from the rule." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). "Consequently, a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented." *Id.* at 21, 778-79 (citing *Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992)). Our Supreme Court has observed that "[t]here is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument." *Id.* at 22, 779. And, of course, "Rule 59(e) motions serve a vital purpose for proper issue preservation." *Home Med. Sys., Inc. v. S.C. Dep't of Revenue*, 382 S.C. 556, 562, 677 S.E.2d 582, 586 (2009); *see also* Rule 29(D) (requiring that a motion for reconsideration be filed prior to any appeal).



ARGUMENT

Respondent appreciates the Court's thorough review of this matter and detailed consideration of the issues presented by the parties in their motions for summary judgment in its February 13, 2026 Order. Respondent submits this motion to bring to the Court's attention several matters contained in the Order concerning the interpretation of S.C. Code Ann. § 38-53-170 that the Court may wish to reconsider.

A. The Plain Language of S.C. Code Ann. § 38-53-170(e) Demonstrates that Payment Agreements Are Permitted in Lieu of Collecting the Full Minimum Premium Up Front.

The Court's Order essentially agreed with the Department's interpretation of S.C. Code Ann. § 38-53-170(e) and placed particular emphasis on the requirement in the first paragraph of this section which requires the minimum premium amount to be "charged *and collected* by the bondsman before the execution of the bond." § 38-53-170(e) (emphasis added). The Order reasoned that if Respondent's interpretation is correct, and the payment agreement provision is intended as an alternative to the prior-collection provision, it "would create a contradiction that would render the prior-collection requirement in the first provision meaningless and ineffectual; the exception would swallow up the rule." Order at 16 n.16.

Respondent respectfully has a different reading of the relationship between these two provisions. In Respondent's view, the first paragraph stands on its own—in the absence of a payment agreement between the bondsman and the defendant, the defendant is indeed obligated to pay the entire minimum amount of the premium before the bond is posted. This reflects the fact that a payment agreement may not be appropriate or desirable in every case—it may be that the defendant is readily able to pay the full amount of the premium up-front, or that the bondsman does not wish to enter into a payment agreement with this defendant, or does not wish to enter into

payment agreements at all. Nothing in the language of § 38-53-170(e) requires a bondsman to offer a payment agreement to the defendant; thus, if the bondsman elects to enter into a payment agreement, it reflects her own independent judgment that a payment agreement is appropriate and that this defendant is capable of meeting his obligations under the agreement. If the bondsman fails to reach this conclusion, or decides for whatever reason not to offer a payment agreement to the defendant, then the defendant is left only to pay the full amount of the minimum premium as required by the first paragraph of § 38-53-170(e). This is the base requirement and operation of the statute.

The payment agreement provision does not change this basic obligation. In all cases, the defendant is required to pay 10% of the face amount of the bond or \$100, whichever is greater. § 38-53-170(e). The only thing the payment agreement provision does is that it gives the defendant *more time* to discharge this obligation. But this additional time is not offered unconditionally—before the bond is posted, the defendant must not only agree to pay the full minimum premium, but must also bind himself to additional measures intended to secure his compliance with this payment obligation. These include:

- Paying a minimum of \$100 as a down payment;
- Agreeing to pay the full amount of the premium over a period of time not to exceed 18 months, on terms that may not be altered;
- If the payments are not timely made, going to jail¹;
- Before being re-released on bond, paying the entire accelerated balance due under the agreement.

¹ This requirement is not optional. *See* § 38-53-170(e) (providing that if the defendant fails to bring his payments current within 10 days of notice of late payment, “the bondsman must surrender the principal to the proper detention facility”) (emphasis added).

See § 38-53-170(e). As Respondent noted in her prior briefing, the statute further requires that the payment agreement be memorialized as a statement of bondsman which must be attached to the bond proceeding form, thereby becoming part of the record in the defendant's criminal case. *Id.*

Respondent respectfully submits that these additional requirements for a payment agreement answer the Court's question "why the General Assembly would have included the minimum, pre-execution collection requirements in the first paragraph at all instead of just requiring a minimum downpayment of \$100 with the remainder of the premium to be paid and collected over eighteen months, i.e. through a payment plan." Order at 15. By its plain language, the statute provides two options for payment of the minimum 10% premium: the defendant can either (1) pay the entire amount up-front, or (2) if it is made available to him, enter into an agreement to pay that same amount over eighteen months, provided however that he will be taken straight back to jail if he fails in that obligation. To analogize this transaction to a common real estate purchase, the purchaser always has the option to pay cash at the closing, but may also (depending upon his creditworthiness) enter into a secured obligation to pay that same amount over time, understanding that if he fails to timely make payments under the agreement, his property will be taken from him as collateral. The principal difference between this example and § 38-53-170(e) payment agreements is that the collateral is not the defendant's real property, but rather his freedom. Obviously, this additional security and the procedures that accompany a payment agreement are not necessary where the defendant pays the full minimum premium up-front—in either case, the defendant either meets his financial obligation for a bond or he goes to jail. Thus, both provisions of § 38-53-170(e) have important operative effects under Respondent's reading, and for satisfying the risk intended to be addressed by the statute.

If the Court's interpretation of the statute is correct, then it necessarily means that the Legislature crafted this detailed payment agreement procedure intending it to apply only to an optional 5% of the face amount of the bond that the bondsman does not have to charge, and that is over and above the minimum premium required by the Legislature. This, in turn, would raise some important questions. Why would the Legislature care about the alterability and length of the term of the payment agreement if it only applies to an optional portion of the premium that serves only to benefit the bondsman? Why would the Legislature require that the agreement be filed in the defendant's criminal case if it is only for this surplus amount of the premium? Why would the Legislature require an additional \$100 down payment when the defendant has already demonstrated his ability to pay the minimum 10% premium? And most importantly, why would the Legislature require the immediate incarceration of someone who fails to timely pay an additional portion of the bondsman's fee that the bondsman is not required to charge in the first place? And then force him to remain in jail until the full balance of that optional fee is paid?

Put simply, if the Court's reading is correct, then the Legislature went to great lengths—notably by including an incarceration-for-default provision in the statute—in order to ensure that bondsmen get their additional 5% premium payment. Respondent respectfully submits that this cannot have been the Legislature's intention—South Carolina abolished debtors' prisons in the 1868 Constitution. *See* S.C. Const. (1868) art. I § 20; *see also* S.C. Const. (current) art. I § 19 ("No person shall be imprisoned for debt except in cases of fraud."). This State does not imprison people for private debts, and any amount of the bondsman's fee over and above the 10% minimum required by the Legislature is just that—a surplus fee that may be charged in the bondsman's sole discretion and for his sole benefit. The State has no interest in this additional fee except to cap it to prevent excessive fees charged by bondsmen, as earlier versions of the statute did. *See Exhibit*

A, Former S.C. Code Ann. § 38-53-170 (enacted by 1998 Act No. 425, § 2). And, other portions of Chapter 53 make clear that “[n]onpayment of premium fees alone is not sufficient cause to warrant immediate incarceration of the defendant.” S.C. Code Ann. § 38-53-50(B) (cited in S.C. Code Ann. § 38-53-170).² Thus, it would be both unconstitutional and inconsistent with other provisions in Chapter 53 for the State to guarantee this private obligation upon pain of immediate imprisonment. *See State v. McGrier*, 378 S.C. 320, 329, 663 S.E.2d 15, 19 (2008) (“Constitutional constructions of statutes are not only judicially preferred, they are mandated; a possible constitutional construction must prevail over an unconstitutional interpretation.”) (quoting *Henderson v. Evans*, 268 S.C. 127, 132, 232 S.E.2d 331, 333–34 (1977)); *Porter v. S.C. Pub. Serv. Comm’n*, 327 S.C. 220, 224, 489 S.E.2d 467, 469 n.3 (1997) (“Where two statutes can be reconciled and are susceptible of a construction which will render both operative without doing violence to each other, it is the duty of the court to so construe them.”); *see also Stone v. State (City of Orangeburg)*, 313 S.C. 533, 535, 443 S.E.2d 544, 545 (1994) (“This Court must avoid construing a statute so as to lead to an absurd result.”) (citing *State v. Allen*, 314 S.C. 539, 431 S.E.2d 563 (1993)).

It must be noted that this payment agreement provision did not exist prior to the 2023 amendments to § 38-53-170(e). *See* Ex. A. It stands to reason, then, that this provision was intended as part of, and as a response to, the Legislature’s new requirement that a minimum of 10% of the face amount of the bond must be charged and collected by the bondsman. The 15% cap on bond premiums pre-existed the 2023 amendments; yet the statute included no payment agreement mechanism at that time. It logically follows that this payment agreement procedure was

² Act 83 specifically added the word “premium” to this provision, further signifying that it was not the Legislature’s intention to immediately incarcerate defendants for failure to pay this 5% additional premium fee. *See Exhibit B*, 2023 S.C. Act 83 (H. 3532) (enacted June 20, 2023).

intended to apply to the new minimum payment requirement that the Legislature concurrently enacted. *See Smith v. S.C. State Highway Comm'n*, 138 S.C. 374, 136 S.E.2d 487, 488 (1927) (holding that when statutes are passed at the same time, “it is to be presumed that such acts are imbued with the same spirit and actuated by the same policy, and they are to be construed together as if parts of the same act”); *see also Kiriakides v. United Artists Comms., Inc.*, 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994) (holding that statutory language “must be construed in the light of the intended purpose of the statute”).

For these reasons, Respondent submits that the General Assembly’s use of the word “however” to begin the second paragraph of § 38-53-170(e) was indeed intended to modify the requirement that the bondsman collect the full 10% premium prior to the execution of the bond, and respectfully requests that the Court reconsider its ruling on this point.

B. The Legislative History Surrounding S.C. Code Ann. § 38-53-170(e) Supports Respondent’s Reading.

Both the Order and the South Carolina Attorney General opinion cited by Respondent examined the legislative history surrounding the 2023 amendments to § 38-53-170(e). *See Order* at 16 n.17; *The Honorable B. Lee Miller*, Op. S.C. Att’y Gen., 2024 WL 3186557 (July 17, 2024); *see also Ex parte Cannon*, 385 S.C. 643, 655, 685 S.E.2d 814, 821 (Ct. App. 2009) (“The construing court may additionally look to the legislative history when determining the legislative intent.”) (citing *State v. Byrd*, 267 S.C. 87, 92, 226 S.E.2d 244, 247 (1976)). And, both the Order and the Attorney General opinion observed that a prior, un-enacted version of the 2023 amendments to § 38-53-170(e) included the following language in the payment agreement 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.*

Exhibit C, Senate Journal p. 2047 (April 11, 2023) (emphasis added). As the Attorney General observed, these were the first amendments proposed to § 38-53-170(e) in the bill, offered by Senator Adams on the second reading of the bill in the Senate. *See id.*; *see also The Honorable B. Lee Miller*, 2024 WL 3186557, at *3. The emphasized language noted above was removed the next day on the third reading, leaving only the one-hundred-dollar down-payment requirement that exists in the statute now. *See Exhibit D*, Senate Journal p. 2103 (April 12, 2023).

The Attorney General reasoned that if the full 10% premium payment were intended to be collected up-front, such that the payment agreement provision was intended only to apply to the remaining 5% of the bond permitted to be collected by the bondsman as a premium, then the 5% down payment requirement would leave nothing to be collected by the payment agreement. The Court characterized this as a “logical construction of the proffered amendment,” but it rejected this reasoning because the amendment “may have been rejected because the General Assembly *shared* the Department’s interpretation of the statute.” Order at 17 n.17.

Respondent respectfully submits that the Attorney General’s interpretation of this legislative history is the correct one because the April 11, 2023 amendment was the first time that any changes to § 38-53-170(e) were ever proposed—prior versions of the bill do not appear to address § 38-53-170(e) at all. This being the first instance in which changes were proposed to § 38-53-170(e), the April 11, 2023 amendment demonstrates how this language was originally intended to operate: either the defendant must pay \$100 or 10% of the face amount of the bond up-front, whichever is greater, or he must enter into a payment agreement and pay \$100 or 5% of the bond as a down payment, whichever is greater. Viewed in this context, the subsequent amendment offered by Senators Adams, Hutto, and Malloy the next day shows that it was intended only to

remove the 5% down payment requirement, such that the defendant may obtain a payment agreement with only a \$100 down payment. This legislative history thus demonstrates that these amendments to § 38-53-170(e) were intended from the start to treat the payment agreement as an alternative to the 10% prior-collection requirement. *See Powell v. Keel*, 433 S.C. 457, 471, 860 S.E.2d 344, 351 (2021) (finding that the Legislature's removal of prior, restrictive language in a statute evidenced an intent to broaden access to the records at issue).

The Order also addressed S.C. House Bill 4512, which was introduced in the House on May 6, 2025 and referred to the House Judiciary Committee. *See Exhibit E* (2025 House Bill No. 4512). This proposed legislation would remove altogether from § 38-53-170(e) the provisions concerning minimum and maximum premiums charged for bail bonds, as well as the payment agreement provisions, and replace those provisions with a new section, 38-53-175, which would read as follows:

Section 38-53-175. (A) The bond premium may not exceed fifteen percent of the face amount of the bond.

(B) A bondsman must charge and collect a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, before the execution of the bond.

(C) Payment agreements are permitted for amounts in excess of ten percent of the bond but are otherwise prohibited.

This proposed legislation, obviously, would transform the current provisions of Chapter 53 into what the Department asserts they are now. The Court discussed these proposed amendments in its Order but placed no weight on them because they were not enacted. Order at 17 n.17. Respondent respectfully observes that if § 38-53-170(e) in its current form operated as the Department asserts, there would be no reason for these amendments. Respondent further notes that these proposed amendments would remove altogether the detailed payment agreement provisions that currently appear in § 38-53-170(e), including the incarceration-for-default provision, which

demonstrates that the payment agreements envisioned by § 38-53-170(e) are indeed intended to ensure the defendant's compliance with the minimum 10% premium payment. Said another way, House Bill 4512 acknowledges that if the payment agreement applies only to a premium charged in excess of the minimum 10% required by the Legislature, then the State has no interest in regulating these payment agreements and ensuring the defendant's compliance therewith by immediate incarceration. Thus, this subsequent legislative history further supports Respondent's reading of § 38-53-170(e) as it is currently enacted.

C. Deference to SCDOI Is Not Appropriate in this Case.³

Underlying the Court's decision was the doctrine of deference to state agencies espoused in *Kiawah Development, Partners, II v. S.C. Department of Health & Environmental Control* and like cases. 411 S.C. 16, 32–33, 766 S.E.2d 707, 718 (2014); Order at 17. The Court acknowledged that this doctrine has been substantially altered at the federal level with the overruling of *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984) by *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). Yet, the Court concluded that the U.S. Supreme Court's ruling in *Loper Bright* does not affect this State's own formulation of the agency deference doctrine, citing in support the Honorable S. Phillip Lenski's order in *Friends of Horse Creek Valley v. S.C. Department of Environmental Services*, No. 24-ALJ-07-0316-CC, 2025 WL 3045193 (S.C. Admin. Law Ct. Oct. 14, 2025). Order at 17 n.18.

³ Respondent acknowledges that she did not delve deeply into this issue in her prior briefing because, in her view, the Department's interpretation violates the plain language of the statute, which defeats agency deference in all cases. See *Jack's Custom Cycles, Inc. v. S.C. Dep't of Revenue*, 439 S.C. 35, 48, 885 S.E.2d 433, 440 (Ct. App. 2023). However, given the Court's disagreement on this point and its reliance on the deference-to-agencies doctrine, Order at 17, Respondent submits that a fuller examination of this topic is warranted and includes it herein for the Court's consideration.

Before reaching this discussion, Respondent will observe that the doctrine of deference to administrative agencies has no role to play in this case because S.C. Code Ann. § 38-53-170 is penal in nature. This statutory provision is entitled “Unlawful acts” and S.C. Code Ann. § 38-53-340 provides that “[a] person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.” While Respondent was not charged with a crime in connection with this dispute, there can be no doubt that violations of § 38-53-170 carry with them criminal liability in addition to the civil liability that the Department has imposed upon Respondent in this case.

Our Supreme Court has repeatedly held that penal statutes are to be strictly construed in favor of the alleged offender:

The principle is well established that penal statutes are strictly construed, and one who seeks to recover a penalty for the failure on the part of the defendant to discharge some duty imposed by law, must bring his case clearly within the language and meaning of the statute awarding the penalty. Such laws are to be expounded strictly against the offender and liberally in his favor. And it is immaterial, for the purpose of the application of the rule of strict construction whether the proceedings for the enforcement of the penal law, be criminal or civil.

S.C. Dep’t of Revenue v. Collins Ent. Corp., 340 S.C. 77, 79, 530 S.E.2d 635 (2000) (quoting *State ex rel. Moody v. Stem*, 213 S.C. 465, 50 S.E.2d 175 (1948)) (internal alterations omitted); *see also Rorrer v. P.J. Club, Inc.*, 347 S.C. 560, 566, 556 S.E.2d 726, 729 (Ct. App. 2001) (same). This directive derives from the rule of lenity, which requires that any ambiguity in a penal statute must be resolved in the defendant’s favor. *See State v. Miles*, 421 S.C. 154, 164, 805 S.E.2d 204, 210 (Ct. App. 2017) (“The rule of lenity applies when a criminal statute is ambiguous, and requires any doubt about a statute’s scope be resolved in the defendant’s favor.”) (citing *Berry v. State*, 381 S.C. 630, 633, 675 S.E.2d 425, 426 (2009)). Federal courts employ this same doctrine, and have

likewise held that where a statute has both civil and criminal applications, it must be strictly construed in favor of the alleged offender. *See WEC Carolina Energy Solutions LLC v. Miller*, 687 F.3d 199, 204 (4th Cir. 2012) (“Where, as here, our analysis involves a statute whose provisions have both civil and criminal application, our task merits special attention because our interpretation applies uniformly in both contexts. Thus, we follow the canon of strict construction of criminal statutes, or rule of lenity.”) (internal quotations and citations omitted); *see also Guedes v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 140 S.Ct. 789, 790 (2020) (Gorsuch, J., respecting denial of certiorari) (noting that “the law before us carries the possibility of criminal sanctions” and “whatever else one thinks about *Chevron*, it has no role to play when liberty is at stake”); *United States v. Apel*, 571 U.S. 359, 369 (2014) (“[W]e have never held that the Government’s reading of a criminal statute is entitled to any deference.”).

Here, the Court has already found that S.C. Code Ann. § 38-53-170(e) is ambiguous. Order at 11; 21 (finding that § 38-53-170(e) is “certainly ambiguous” and observing that “reasonable and intelligent minds . . . have disagreed over its meaning”). Because this statutory provision is penal in nature, that ambiguity must be resolved in Respondent’s favor. *See Miles*, 421 S.C. at 164, 805 S.E.2d at 210. And it matters not that Respondent has been subjected to no criminal liability in this case, because the Court’s interpretation of this statute will apply equally to civil and criminal applications thereof. *Collins*, 340 S.C. at 79, 530 S.E.2d 635 (“[I]t is immaterial, for the purpose of the application of the rule of strict construction whether the proceedings for the enforcement of the penal law, be criminal or civil.”). Thus, the Court’s reliance on *Kiawah Development Partners* and other cases espousing this State’s doctrine of deference to state agencies (which cases did not concern the interpretation of penal statutes) was inapposite to determining the correct

interpretation of § 38-53-170(e), and the ambiguity found by the Court in this statute must be resolved in Respondent's favor rather than the Department's.

Otherwise, Respondent respectfully disagrees that the U.S. Supreme Court's ruling in *Loper Bright* has had no impact on this State's jurisprudence concerning deference to administrative agencies. In *Colonial Pipeline Co. v. S.C. Department of Revenue*, the Court of Appeals discussed the ruling in *Loper Bright* at some length, noting that it was "cognizant" of this important ruling by the U.S. Supreme Court, and that it was "mindful" of this opinion and other rules of statutory construction in making its determination in that case. 443 S.C. 448, 458–59, 905 S.E.2d 129, 134–35. The Court of Appeals specifically observed that *Loper Bright* "overruled precedent requiring a reviewing court to defer to permissible agency interpretations of the statutes those agencies administered, even when a reviewing court might read the statute differently, if the statute was silent or ambiguous with respect to the specific issue at hand." *Id.* at 458, 134 (internal alterations and quotations omitted). The Court of Appeals further specifically observed that the *Loper Bright* Court had left in place deference under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), "which endorses exercising independent judgment consistent with the respect historically given to Executive Branch interpretations." *Id.* at 459, 134–35.

In *Friends of Horse Creek Valley*, the reasoning of which this Court adopted, the ALC discussed the Court of Appeals' ruling in *Colonial Pipeline* but opined that "the court did not formally adopt, nor did it apply *Loper* style deference, as the issue of agency deference was not reached in that case." 2025 WL 3045193, at *7 n.17. Respectfully, the Court of Appeals did not undertake this substantive discussion of *Loper Bright* for no reason—it was at least a signal, if not a directive, for lower courts to be "cognizant" and "mindful" of this watershed ruling, as the Court

of Appeals was in rendering its decision in *Colonial Pipeline*. Respondent submits that this Court should do likewise that and find that *Chevron*-style deference is not appropriate in this case.

In *Loper Bright*, the U.S. Supreme Court described the holding in *Skidmore* thus:

[T]he Court explained that the “interpretations and opinions” of the relevant agency, “made in pursuance of official duty” and “based upon specialized experience,” “constituted a body of experience and informed judgment to which courts and litigants could properly resort for guidance,” even on legal questions. “The weight of such judgment in a particular case,” the Court observed, would “depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.”

Loper Bright, 603 U.S. at 388 (quoting *Skidmore*) (internal alterations and citations omitted). S.C. Code Ann. § 38-53-20 does commit to the Director of the Department of Insurance the responsibility for administering and enforcing Chapter 53; however, Respondent submits that even *Skidmore* deference is not appropriate here because the minimum-premium, payment-agreement structure created by the General Assembly in its 2023 amendments to Chapter 53 is a new framework with which the Department has no considerable or specialized experience or judgment. While the Department has for years regulated bail bondsmen, it is grappling with this new payment-agreement framework alongside everyone else, including the Attorney General and the industry itself. It has no longstanding policy or procedure for regulating these kinds of agreements which might warrant any particular deference, nor any “consistency with earlier and later pronouncements” that might give weight to its interpretation. *Id.* at 388. And, “[o]f course, ‘no agency deference is due to agency interpretations at odds with the plain language of the statute itself.’” *Genesis Health Care, Inc. v. Becerra*, 710 F. Supp. 3d 312, 324 (D.S.C. 2023) (quoting *Smith v. City of Jackson, Miss.*, 544 U.S. 228, 267 (2005)). For the reasons noted *supra* and in Respondent’s prior briefing, the Department’s interpretation is indeed at odds with the plain

language of § 38-53-170(e). Thus, Respondent submits that the Department's interpretation lacks the "power to persuade" envisioned by *Skidmore*.

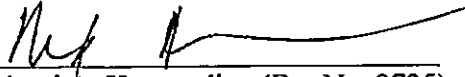
Again, however, the Court need not reach the question whether the Department's interpretation is entitled to either *Chevron* or *Skidmore*-style deference because § 38-53-170(e) is a penal statute which must be construed in Respondent's favor in the first instance. *See Collins*, 340 S.C. at 79, 530 S.E.2d 635. There is simply no deference to be afforded to the Department's interpretation of this statute, and the ambiguity in the statute that the Court has already found must be construed to favor Respondent.

CONCLUSION

For these reasons, Respondent Freeman respectfully requests the Court reconsider its February 13, 2026 Order to find that the Department's interpretation of S.C. Code Ann. § 38-53-170(e) is incorrect. Respondent further requests that the Court amend its Order to: (1) grant summary judgment in Freeman's favor; (2) vacate the Department's determination and the fine imposed on Freeman *in toto*; and (3) grant Freeman such other and further relief as the Court deems just and proper.

[Signature on following page]

Respectfully submitted,



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Attorneys for Respondent Joyce Freeman

March 3, 2026
Columbia, South Carolina.

EXHIBIT A

(§ 38-52-170 Unlawful acts (prior version))

Code of Laws of South Carolina 1976 Annotated

Title 38. Insurance ([Refs & Annos](#))

Chapter 53. Bail Bondsmen and Runners

This section has been updated. Click [here](#) for the updated version.

Code 1976 § 38-53-170

§ 38-53-170. Unlawful acts.

Effective: [See Text Amendments] to June 19, 2023

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 dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond. 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;

(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;

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

§ 38-53-170. Unlawful acts., SC ST § 38-53-170

Credits

HISTORY: Former 1976 Code § 38-63-180 [1985 Act No. 189, § 1] recodified as § 38-53-170 by 1987 Act No. 155, § 1; 1988 Act No. 476; **1993 Act No. 181, § 696; 1998 Act No. 425, § 2.**

Code 1976 § 38-53-170, SC ST § 38-53-170

Current through 2025 Act No. 94, subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

End of Document

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EXHIBIT B

(SC LEGIS 83 (2023))

2023 South Carolina Laws Act 83 (H.3532)

SOUTH CAROLINA 2023 SESSION LAWS

REGULAR SESSION

Additions and deletions are not identified in this document.

Vetoed are indicated by ~~Text~~ ;

stricken material by ~~Text~~ .

Act 83

H.3532

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17-15-270 SO AS TO CREATE AN ADDITIONAL OFFENSE PUNISHABLE BY UP TO FIVE YEARS IF A PERSON COMMITS A SUBSEQUENT VIOLENT CRIME WHILE SUBJECT TO A BOND ORDER OR PRETRIAL RELEASE ORDER FOR A PREVIOUS VIOLENT CRIME; BY AMENDING SECTION 17-15-15, RELATING TO CASH DEPOSITS IN LIEU OF BOND, SO AS TO PROVIDE THAT IF THE COURT FINDS THAT A DEFENDANT MAY BE RELEASED ON BOND WHO HAS BEEN CHARGED WITH A VIOLENT OFFENSE OR ANY FELONY OFFENSE INVOLVING A FIREARM WHILE OUT ON BOND OR OTHER PRETRIAL RELEASE, THE BOND MUST BE SET AT THE FULL UNITED STATES CASH CURRENCY BOND RATHER THAN TEN PERCENT; BY AMENDING SECTION 17-15-30, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE, SO AS TO INCLUDE WHETHER A PERSON IS CURRENTLY OUT ON BOND FOR ANOTHER OFFENSE; BY ADDING SECTION 17-15-35 SO AS TO DEFINE NECESSARY TERMS, AND TO PROVIDE PROCEDURES FOR COURT-ORDERED ELECTRONIC MONITORING IN LIEU OF SETTING BOND OR AS AN ADDITIONAL CONDITION OF BOND; BY ADDING SECTION 17-15-37 SO AS TO AUTHORIZE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO PROMULGATE REGULATIONS REGARDING ELECTRONIC MONITORING AND TO PROVIDE PARAMETERS FOR WHICH AN ELECTRONIC MONITORING AGENCY MUST OPERATE WITHIN; BY AMENDING SECTION 17-15-55, RELATING TO RECONSIDERATION OF BOND BY THE CIRCUIT COURT SET BY A SUMMARY COURT, SO AS TO PROVIDE A DEFENDANT MUST BE ADVISED OF HIS RIGHT TO A SPEEDY TRIAL AND TO PROVIDE PROCEDURES RELATED TO SPEEDY TRIALS, TO PROVIDE FOR THE REVOCATION OF PREVIOUS BOND IF A PERSON COMMITS A VIOLENT OFFENSE OR A FELONY OFFENSE INVOLVING A FIREARM WHICH WAS COMMITTED WHILE THE PERSON WAS ALREADY OUT ON BOND FOR A PREVIOUS VIOLENT OFFENSE OR FELONY OFFENSE INVOLVING A FIREARM, TO REQUIRE A FULL BOND UNDER CERTAIN REPEAT OFFENDER CIRCUMSTANCES, AND TO PROVIDE CONFORMING PROCEDURES; BY AMENDING SECTION 22-5-510, RELATING TO BAIL AND BOND HEARINGS AND CONDITIONS OF RELEASE, SO AS TO INCLUDE WHETHER A PERSON IS CURRENTLY OUT ON BOND FOR ANOTHER OFFENSE; BY AMENDING SECTION 24-13-40, RELATING TO THE COMPUTATION OF TIME SERVED BY PRISONERS, SO AS TO PROHIBIT CREDIT FOR TIME SERVED PRIOR TO TRIAL AND SENTENCING WHEN THE PRISONER COMMITTED A SUBSEQUENT CRIME WHILE OUT ON BOND OR HAD BOND REVOKED ON ANY CHARGE PRIOR TO TRIAL OR PLEA; BY AMENDING SECTION 24-13-425, RELATING TO THE OFFENSE OF TAMPERING WITH AN ELECTRONIC MONITORING DEVICE, SO AS TO DELETE AN UNNECESSARY DEFINITION AND EXEMPT CERTAIN AUTHORIZED EMPLOYEES OR AGENTS FROM THE PURVIEW OF THE STATUTE; BY ADDING SECTION 17-15-500 SO AS TO ESTABLISH THE SOUTH CAROLINA PRETRIAL REFORM COMMISSION, PROVIDE FOR ITS MEMBERSHIP AND DUTIES, AND TERMINATE THE COMMISSION ON A DATE CERTAIN; BY AMENDING SECTION 38-53-10, RELATING TO DEFINITIONS FOR PURPOSES OF THE CHAPTER ON BAIL BONDSMEN AND RUNNERS,

SO AS TO REVISE THE DEFINITION OF "SURETY BONDSMAN" AND DEFINE THE TERM "ELECTRONIC MONITORING"; BY AMENDING SECTION 38-53-50, RELATING TO SURETY RELIEVED ON BOND, SO AS TO MAKE A TECHNICAL CHANGE REGARDING NONPAYMENT OF PREMIUM FEES ALONE NOT BEING SUFFICIENT TO WARRANT IMMEDIATE INCARCERATION OF THE DEFENDANT; BY AMENDING SECTION 38-53-70, RELATING TO THE ISSUANCE OF BENCH WARRANTS FOR FAILURE TO APPEAR, SO AS TO REVISE THE STATUTE TO APPLY MORE BROADLY WHEN A DEFENDANT VIOLATES THE CONDITIONS OF BOND AND REVISE TIME FRAMES PROVIDED FOR THE NOTICE OF THE BENCH WARRANT; BY ADDING SECTION 38-53-84 SO AS TO REQUIRE NOTIFICATION TO THE APPROPRIATE SOLICITOR IF A DEFENDANT VIOLATES AN ORDER FOR ELECTRONIC MONITORING, TO PROVIDE FOR RELIEF FROM THE BOND IF THE DEFENDANT FAILS TO PAY FOR THE MONITORING, AND TO PROVIDE FOR POSSIBLE REVOCATION OF A BONDSMAN'S LICENSE FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS; BY AMENDING SECTION 38-53-170, RELATING TO UNLAWFUL ACTS BY BONDSMEN AND RUNNERS, SO AS TO PROVIDE ADDITIONAL PAYMENT PROCEDURES AND EXPENSE REIMBURSEMENT PROCEDURES; BY AMENDING SECTION 38-53-310, RELATING TO WRITTEN BAIL BOND REPORTS THAT MUST BE FILED EACH MONTH WITH THE CLERK OF COURT, SO AS TO INCLUDE CURRENT DATA RETAINED AS AN EXPRESS CONDITION OF BOND, AND TO ALLOW FOR THE USE OF A DATA MANAGEMENT SOFTWARE SYSTEM IN LIEU OF THE WRITTEN REPORT; AND BY ADDING SECTION 38-53-55 SO AS TO REQUIRE A PERSON ENGAGED IN ELECTRONIC MONITORING OF A DEFENDANT CHARGED WITH A VIOLENT OFFENSE TO REPORT TO THE COURT AND LAW ENFORCEMENT OFFICIALS IF THE DEFENDANT HAS CONTACT WITH THE ALLEGED VICTIM.

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

Additional offense for persons violating bond, violent crimes

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

<< SC ST § 17-15-270 >>

Section 17-15-270. (A) It is unlawful for a person to commit a violent crime while under a bond order or other pretrial release order for a previous violent crime. If the person is convicted of the subsequent violent crime, and is thereafter convicted of a violation of this section, the person is guilty of a felony and must be imprisoned not more than five years. The sentence may be imposed concurrently or consecutively to the punishment for the principal offense.

(B) For purposes of this section:

- (1) a violent crime is defined as those contained in Section 16-1-60;
- (2) a subsequent violent crime is one that occurs at a later date and time than the offense that resulted in the imposition of the bond order or other pretrial release order.

Full cash bonds

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

<< SC ST § 17-15-15 >>

Section 17-15-15. (A) Except as provided in subsection (D), in lieu of requiring actual posting of bond as provided in 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, must be returned to the defendant by the clerk except as provided in subsection (C).

(B) The cash deposit provided for in subsection (A) 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.

(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, the deposit may be used for the purpose of restitution.

(D) The provisions of this section do not apply if the defendant is charged with a violent offense, as defined by Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release. 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 whether the bond is posted by the defendant or with a bondsman. After the defendant fulfills the conditions of the bond, the clerk shall return the cash bond amount paid to the defendant. However, in the event the defendant is required by the court to make restitution to the victim of his crime, the cash bond may be used for the purpose of such restitution.

Any currency cash 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. Additionally, the court may impose any other conditions allowed under Chapter 15, Title 17, and any other provision of law.

Conditions of release

SECTION 3. Section 17-15-30 of the S.C. Code is amended to read:

<< SC ST § 17-15-30 >>

Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court must consider:

- (1) a person's criminal record;
- (2) any current charges pending against a person and any prior charges 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;
- (5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and
- (6) whether a person is currently out on bond for another offense.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency must provide the court with the following information:

- (a) a person's criminal record;
- (b) any charges pending against a person at the time release is requested;
- (c) all incident reports generated as a result of the offense charged; and
- (d) any other information that will assist the court in determining conditions of release to include, but not be limited to, notification of any existing bonds for another offense.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

Definitions, electronic monitoring as condition of bond

SECTION 4. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17-15-35 >>

Section 17-15-35. (A) As used in this section:

- (1) "Approved active electronic monitoring device" and "monitoring device" means a body worn or non-body worn device or mobile phone application approved by the South Carolina Law Enforcement Division which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person's location and activities, that must verify live biometric, photographic, or videographic identification information, and that timely records and reports the person's location.
- (2) "Approved electronic monitoring agency" means a law enforcement agency, licensed bondsman or bonding company, or electronic monitoring company that is certified by the South Carolina Law Enforcement Division to supply, maintain, and monitor electronic monitoring devices to participants ordered by the court to wear electronic monitoring devices under the provisions of this section.
- (3) "SLED" means the South Carolina Law Enforcement Division.
- (4) "Monitoring agency" or "agency" means an approved electronic monitoring agency.

(5) "Participant" means a person, ordered by the court or as a condition of bond to wear or possess an approved electronic monitoring device.

(B)(1) The court, in its discretion, may, for a person charged with a violation of criminal offense under the jurisdiction of the court of general sessions or any offense where the court finds sufficient evidence of a concern for the victim's safety or the safety of any member of the public, order that the person be placed on surveillance via an approved active electronic monitoring device which must be worn or possessed at all times for the duration specified by the court, either in lieu of setting or requiring the posting of bond or as an additional condition of the release on bond.

(2) For pretrial bond consideration, the judge is not limited to nonviolent offenses, but must take into consideration all concerns relating to the setting of an appropriate bond under Section 22-5-510, Sections 17-15-10, et seq., and Section 16-25-120. The device must be capable of recording the person's location at all times. If the court orders a device, before the participant is allowed to leave custody, the detention facility where the defendant is located, in coordination with the approved monitoring agency, must ensure the participant is fitted with an approved active electronic monitoring device, and that all appropriate bond paperwork, including the agreement with the bonding and electronic monitoring companies acknowledging the terms and restrictions of the bond, is completed.

(3) The participant who is ordered on supervision must:

(a) wear an approved device at all times to verify his compliance with the conditions of his detention or if the device is not body worn, must maintain possession of his approved device on or near his person at all times for the duration of the detention and must verify his identity and location at any time required by the order of the court and must maintain the monitoring device on or near his person at all times for the duration of the detention, subject to the order of the court and reasonable orders of an agent or employee of the monitoring agency in order to effectuate the conditions of the monitoring order. For purposes of this subsection, "near" means within hearing distance of the device's notification or call alerts but not farther than thirty feet. In areas of the State where cellular coverage requires the use of an alternate device, the approved electronic monitoring company may use an alternate approved device with approval of the court;

(b) charge and maintain the monitoring device in working order and must report any damage, destruction, or noticeable malfunction of the active monitoring device, whether the incident was accidental or intentional, and including the device having a dead battery, to at least one of the following parties within two hours of the incident: the monitoring agency, the appropriate law enforcement agency with jurisdiction over the underlying offense, or any other party specified in the order;

(c) abide by other terms and conditions set forth by the approved electronic monitoring agency with regard to the monitoring device and electronic monitoring program;

(d) turn himself in to custody of the appropriate detention facility upon the order of the monitoring agency, or the appropriate law enforcement agency with jurisdiction over the offense; and

(e) pay for the cost of the approved active electronic monitoring device and the operation of the monitoring device for the duration of the time the person is required to be electronically monitored, subject to an order of indigency by the court. The summary court or circuit court has jurisdiction upon motion of the defendant to consider exempting 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 who is deemed indigent. If the indigency hearing is held at a time and date separate from the initial bond hearing, the defense must notify the prosecutor, the bondsman, and the monitoring agency of the date, time, and location of the hearing subject to the notice requirements of the court.

The payment of the cost must be a condition of supervision of the person and a delinquency of two weeks or more in making payments may operate as a violation of a term or condition of the electronic monitoring and bond. No person shall be denied the privilege of electronic monitoring under this statute based on inability to pay upon a finding by the court that the defendant meets the qualifications for indigency. The State shall allocate funds to be housed in an indigency fund under the control of the Department of Public Safety to be distributed to the monitoring companies as appropriate to cover the cost of indigent participants.

(C) A participant ordered by the court to be monitored under the provisions of this section, who fails to comply with any of the provisions of this section or who fails to comply with any additional condition of the court order including location restrictions, may have his bond revoked or may be punished for contempt at the discretion of the court.

(D) It is unlawful for any person, knowingly and without authority, to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent an active electronic monitoring device, or to aid or assist a person ordered by the court to be electronically monitored under the provisions of this section to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent a monitoring device and, upon conviction, the person must be punished under the provisions of Section 24-13-425. This subsection does not apply to a person or agent of the electronic monitoring agency or bonding company, or a member of law enforcement acting under the authority of and with compliance to the court order.

(E)(1) Upon violation of any of these requirements and a showing by affidavit and supporting records by the electronic monitoring company on a domestic violence bond or general sessions bond or where emergency circumstances exist on any other bond, the approved electronic monitoring company may approach a summary court judge for a bench warrant if one is not already provided for in the bond paperwork or other court order. Law enforcement shall immediately attempt to locate and incarcerate the defendant upon notice of the bench warrant. After incarceration, the prosecutor must be notified and the defendant must be brought before a summary court judge within three calendar days or before a circuit court judge within three business days, whichever has jurisdiction of the underlying charge, to determine whether the bond is to be reconsidered or bond conditions amended. The prosecution must provide the defense with any relevant evidence regarding the alleged violation within a reasonable time before the hearing and the hearing may be continued for cause.

(2) Nothing in this section shall reduce any duty of the bondsman to pick up the offending bailee and immediately incarcerate him for violation of bond conditions. Failure to do so may lead to bond estreatment for failure to enforce bond conditions by the bondsman and possible other administrative or criminal action.

(3) Nothing in this section may be used to hold the electronic monitoring agency civilly liable for any criminal acts of the defendant committed while being monitored.

Regulations regarding electronic monitoring by SLED, electronic monitoring agency requirements

SECTION 5. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17-15-37 >>

Section 17-15-37. (A) The South Carolina Law Enforcement Division may promulgate regulations to effectuate the intent of Section 17-15-35 and this section, develop standards for the use and approval of active electronic monitoring devices, and shall certify electronic monitoring agencies, including law enforcement agencies, electronic monitoring companies, and bondsmen and bonding companies. SLED must keep a public list of those companies that are certified.

(B) The approved electronic monitoring agency must:

- (1) provide active electronic monitoring devices or mobile phone applications approved by SLED that must provide verifiable identity and location information at regular and random intervals throughout the day, and that timely record and report the person's presence near or within a prohibited area or the person's departure from a specified geographic location;
- (2) allow any law enforcement agency, including the prosecutor's office, to have access to real-time monitoring, if possible, and any reports requested by law enforcement or the prosecution must be provided within twenty-four hours of the request;
- (3) notify the solicitor having jurisdiction over the participant and the bondsman within forty-eight hours when he becomes aware or should have become aware that the participant has violated any provision of the court's order for electronic monitoring, or the participant has been surrendered to the custody of law enforcement; and
- (4) immediately notify local law enforcement and make reasonable attempts to immediately notify the victim if the participant violates any exclusion zones related to the victim.

(C) Failure of the electronic monitoring agency to maintain compliance with regulations established by SLED, the order of the court, or any applicable statute shall be reported to SLED by the solicitor for administrative action. SLED may impose a fine, or suspend or revoke the certification for any approved agency who demonstrates a failure to maintain the standards and reporting requirements set forth under the regulations and appropriate statutes.

Speedy trials, bond revocation, conforming provisions

SECTION 6. Section 17-15-55 of the S.C. Code is amended to read:

<< SC ST § 17-15-55 >>

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. A defendant shall be advised of his right to a speedy trial. Notwithstanding another provision of law, nothing prevents a solicitor or the defendant from filing a motion for a speedy trial or requesting the court to set a date certain for trial based on the facts and circumstances in the case. If either party fails to comply with the terms of an order granting a speedy trial, the court may reconsider the terms of the defendant's bond, may consider sanctions and may grant other just and proper relief as the court determines.

(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. The court must have a hearing and rule on the state's motion within thirty days of the filing.

(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 that 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 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 offense or any felony offense involving a firearm and the subsequent offense did not arise out of the same series of events as the previous offense, then:

(1) the bond for the original offense must be revoked by operation of law and a hearing for the subsequent violent offense or any felony offense involving a firearm must be held in the circuit court within thirty days;

(2) during the bond hearing for the subsequent violent offense or felony offense involving a firearm, the court must issue findings of fact and conclusions of law addressing the revocation of bond for the original offense, whether a new bond is issued for the previous offense as well as if bond is appropriate for the subsequent violent offense or felony offense involving a firearm;

(3) 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 Section 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, notwithstanding if posted by the person, his representative, or by a bond surety;

(4) 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; and

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

(E) Notwithstanding subsection (C)(2), if the original bond was set in another judicial circuit, that prosecution agency shall be notified of the revocation and any finding the court makes pursuant to this subsection. The prosecution agency having jurisdiction over the subsequent charge must make the notification required in this subsection within forty-eight hours of the conclusion of the preceeding. The presiding judge has jurisdiction to make a finding on record to deny a new bond on the original charge or may order a new bond hearing to be scheduled on the original charge in the judicial circuit where the charges are pending. This hearing must be scheduled within thirty days by the prosecution agency having jurisdiction over the original charges.

(F) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for 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.

Conditions of release

SECTION 7. Section 22–5–510 of the S.C. Code is amended to read:

<< SC ST § 22–5–510 >>

Section 22–5–510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event including, but not limited to, any charges pending against the person requesting bail. "Violent offenses" as used in this section means the offenses contained in Section 16–1–60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

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

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court 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;
- (5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and
- (6) whether a 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 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 to include, but not be limited to, notification of any existing bonds for another offense.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

Credit for time served

SECTION 8. Section 24-13-40 of the S.C. Code is amended to read:

<< SC ST § 24-13-40 >>

Section 24-13-40. The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

Tampering with an electronic monitoring device

SECTION 9. Section 24–13–425 of the S.C. Code is amended to read:

<< SC ST § 24–13–425 >>

Section 24–13–425. (A) For the purposes of this section, “electronic monitoring device” includes any device ordered by a court or pursuant to any statute that is utilized to track the location of a person.

(B) It is unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purpose of monitoring a person who is:

- (1) complying with the Home Detention Act as set forth in Article 15, Title 24;
- (2) wearing an electronic monitoring device as a condition of bond or pretrial release;
- (3) wearing an electronic monitoring device as a condition of probation, parole, or community supervision; or
- (4) wearing an electronic monitoring device as required by any other provision of law.

(C) It shall be unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purposes described in subsection (B).

(D) This section does not apply to an employee or agent of the electronic monitoring company, bonding company, or law enforcement entity who removes or replaces an active electronic monitoring device in order to perform maintenance and repair on the device, who removes and replaces a non-working device, who removes the device once the person is placed into secure custody or if the underlying charges have been dismissed, or who otherwise is acting under the authority of the court order.

(E) Any person who violates the provisions of this section shall be guilty of the misdemeanor offense of tampering with the operation of an electronic monitoring device and shall be imprisoned for not more than three years, or fined up to three thousand dollars, or both.

Pretrial Reform Commission created

SECTION 10. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17–15–500 >>

Section 17–15–500. (A) There is established the South Carolina Pretrial Reform Commission composed of fifteen members as follows:

- (1) three members to be appointed by the Chairman of the Senate Judiciary Committee;
- (2) three members to be appointed by the Chairman of the House of Representatives Judiciary Committee;
- (3) three members of the judiciary to be appointed by the Chief Justice of the South Carolina Supreme Court;
- (4) three members of the executive branch to be appointed by the Governor; and
- (5) three members of the directly impacted community, including one crime survivor, one person that has been through the pretrial system, and a community member at large to be jointly appointed by the Chairmen of both the House and Senate Judiciary Committees.

(B) The members of the commission may begin meeting when at least a quorum has been appointed and shall elect one member to serve as chairman. A quorum shall consist of at least eight members.

(C) The primary duty of the South Carolina Pretrial Reform Commission is to prepare a comprehensive report that reviews and recommends:

- (1) appropriate changes to the current pretrial system for all criminal offenses;
- (2) maintaining, amending, or abolishing the current system for determining pretrial release or detention; and
- (3) guidelines for legislation to improve the processing of cases in the court of general sessions, community safety, and court appearance outcomes.

(D) The purpose of the report is to enable the General Assembly to consider the Pretrial Reform Commission's findings and determine whether state laws should be amended.

(E) In making its recommendations, the commission must consider current case processing and correctional resources including, but not limited to, the capacities of local jails, community-based service providers, and state courts.

(F) The Pretrial Reform Commission must deliver its report and recommendations to the Chairman of the Senate Judiciary Committee and the Chairman of the House Judiciary Committee no later than July 1, 2024, and the commission shall terminate when the report is made.

(G) The Supreme Court shall provide appropriate staff for the commission. The Chairman of the Senate Judiciary Committee may provide additional staff for the Senate members, and the Chairman of the House Judiciary Committee may provide additional staff for the House members.

(H) Members of the Pretrial Reform Commission may receive per diem, subsistence, and mileage as provided by law for members of state boards, committees, and commissions.

Definitions, bail bondsmen and runners

SECTION 11. Section 38-53-10(12) of the S.C. Code is amended to read:

<< SC ST § 38-53-10 >>

(12) "Surety bondsman" means any person who is approved by and licensed by the director or his designee as a property and casualty insurance agent, appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and receives or is promised money or other things of value for the execution or countersignature.

Definitions, electronic monitoring

SECTION 12. Section 38-53-10 of the S.C. Code is amended by adding:

<< SC ST § 38-53-10 >>

(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.

Nonpayment of premium fees alone insufficient to warrant incarceration

SECTION 13. Section 38-53-50(B) of the S.C. Code is amended to read:

<< SC ST § 38-53-50 >>

(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.

Violation of conditions of bond

SECTION 14. Section 38-53-70 of the S.C. Code is amended to read:

<< SC ST § 38-53-70 >>

Section 38-53-70. If a defendant violates the conditions of release on bond, the court shall issue a bench warrant for the defendant. The court must provide written or electronic notice of the issuance of the bench warrant within thirty days of its issuance 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.

Notification when electronic monitoring violated

SECTION 15. Chapter 53, Title 38 of the S.C. Code is amended by adding:

<< SC ST § 38-53-84 >>

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.

Payment and expense reimbursement procedures

SECTION 16. Section 38-53-170(e) and (f) of the S.C. Code is amended to read:

<< SC ST § 38-53-170 >>

(c) 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 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. 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 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 exceeds the final judgement 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

Bail Bond Reports

SECTION 17. Section 38-53-310 of the S.C. Code is amended to read:

<< SC ST § 38-53-310 >>

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.

(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 cause to be executed.

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

- (1) each individual bonded;
- (2) the date the bond was given;
- (3) the principal sum of the bond;
- (4) the state or local official with whom the bond was filed;
- (5) the fee charged for the bonding service in each instance;
- (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.

Contact with victim violations

SECTION 18. Chapter 53, Title 38 of the S.C. Code is amended by adding:

<< SC ST § 38-53-55 >>

Section 38-53-55. When a person engaged in electronic monitoring of a defendant charged with a violent offense as defined by Section 16-1-60 becomes aware that the defendant has had contact with the alleged victim of the violent offense or with the immediate family of the alleged victim of the violent offense, he must immediately or within twenty-four hours, notify law enforcement, the solicitor, and the court having jurisdiction over the defendant of the contact.

Time effective

SECTION 19. This act takes effect upon approval by the Governor; however, the provisions of Sections 17-15-35 and 17-15-37 take effect six months after approval by the Governor, and the provisions of Section 38-53-10(12) take effect July 1, 2024.

Ratified the 14th day of June, 2023.

Approved the 20th day of June, 2023.

End of Document

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EXHIBIT C

(SC Senate Journal, 2023 Sess. 4/11/2023)

SC S. Jour., 2023 Reg. Sess. 4/11/2023

South Carolina Senate Journal, 2023 Statewide Session, April 11, 2023

April 11, 2023
South Carolina Senate
125th Session, 2023

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Genesis 4:9

We recall how in Genesis: "... the Lord said to Cain, 'Where is your brother, Abel?' 'I don't know.' Cain replied, 'Am I my brother's keeper?'"

Join me as we bow in prayer: O Glorious Lord, we are reminded by the Cain and Abel story that we truly are to be concerned about the well-being of our sisters and brothers here in South Carolina. None of us can live in ignorance of the neediness nor of the apparent lack of hope for many who surround us. Selfish concern for ourselves and our immediate loved ones alone will simply not do. Therefore, Lord, today we pray that You will touch the hearts of every Senator -- indeed, of every single person here in this Statehouse -- and remind us all how interrelated our lives are with those around us. Lead us all by Your grace, O Lord, to reach out boldly with love and compassion to help the lost and the needy. And may that which we do bring all the more glory to You and to Your blessed name, dear Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Call of the Senate

Senator MARTIN moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander Allen Bennett Campsen Cash Climer Corbin Cromer Davis Fanning Gambrell Goldfinch Grooms Gustafson Harpootlian Hembree Hutto *Johnson, Kevin Johnson, Michael* Kimbrell Loftis Malloy Martin Massey Matthews McElveen Peeler Reichenbach Rice Sabb Senn Setzler Shealy Stephens Talley Turner Verdin Young

A quorum being present, the Senate resumed.

MESSAGE FROM THE GOVERNOR

The following appointment was transmitted by the Honorable Henry Dargan McMaster:

Statewide Appointments

Initial Appointment, South Carolina State Commission for Minority Affairs, with the term to commence June 30, 2021, and to expire June 30, 2025

At-Large:

Kaala Maple, 1007 Blockade Runner Parkway, Summerville, SC 29485-6317 *VICE* Tammy Wilson

Referred to the Committee on Judiciary.

Doctor of the Day

Senator REICHENBACH introduced Dr. Joseph Hoyle of Florence, S.C., Doctor of the Day.

Leave of Absence

On motion of Senator BENNETT , at 12:15 P.M., Senator GARRETT was granted a leave of absence for today.

Leave of Absence

On motion of Senator MATTHEWS, at 12:15 P.M., Senator KIMPSON was granted a leave of absence for today.

Leave of Absence

On motion of Senator MATTHEWS, at 12:15 P.M., Senator WILLIAMS was granted a leave of absence for today.

Expression of Personal Interest

Senator STEPHENS rose for an Expression of Personal Interest.

Expression of Personal Interest

Senator HARPOOTLIAN rose for an Expression of Personal Interest.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 95 (Word version) Sen. Fanning

S. 153 (Word version) Sen. Davis

S. 164 (Word version) Sen. Davis

S. 576 (Word version) Sen. Davis

S. 610 (Word version) Sen. Shealy

CO-SPONSOR REMOVED

The following co-sponsor was removed from the respective Bill:

S. 533 (Word version) Sen. Fanning

RECALLED AND ADOPTED

S. 702 (Word version) -- Senator Shealy: A SENATE RESOLUTION TO RECOGNIZE APRIL 11, 2023, AS "DONATE LIFE DAY" IN SOUTH CAROLINA.

Senator SHEALY asked unanimous consent to make a motion to recall the Resolution from the Committee on Family and Veterans' Services.

The Resolution was recalled from the Committee on Family and Veterans' Services.

Senator SHEALY asked unanimous consent to make a motion to take the Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Resolution. The question then was the adoption of the Resolution.

On motion of Senator SHEALY, the Resolution was adopted.

RECALLED

S. 704 (Word version) -- Senator McElveen: A CONCURRENT RESOLUTION TO COMMEMORATE THE ONE HUNDREDTH ANNIVERSARY OF THE CLEVELAND SCHOOL FIRE AND TO RECOGNIZE MAY 17, 2022, AS "CLEVELAND SCHOOL FIRE MEMORIAL DAY" IN SOUTH CAROLINA.

Senator SHEALY asked unanimous consent to make a motion to recall the Resolution from the Committee on Family and Veterans' Services.

The Resolution was recalled from the Committee on Family and Veterans' Services and ordered placed on the Calendar for consideration tomorrow.

RECALLED

H. 4000 (Word version) -- Reps. Jefferson, Cobb-Hunter, Gatch, Robbins, Brewer, Tedder and Murphy: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 78 BEGINNING AT MILE POINT 12.79 AND ENDING AT MILE POINT 22.39 IN DORCHESTER COUNTY "LAVEL TYLER NORMAN DAVIS, JR. MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY CONTAINING THESE WORDS.

Senator GROOMS asked unanimous consent to make a motion to recall the Resolution from the Committee on Transportation.

The Resolution was recalled from the Committee on Transportation and ordered placed on the Calendar for consideration tomorrow.

RECALLED AND ADOPTED

H. 4156 (Word version) -- Reps. Moss, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B.J. Cox, B.L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkerman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J.E. Johnson, J.L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A.M. Morgan, T.A. Morgan, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G.M. Smith, M.M. Smith, Stavrinakis, Taylor, Tedder, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO PROMOTE UNDERSTANDING OF THE GROWING RISK OF BLADDER CANCER IN THE UNITED STATES, TO ENCOURAGE RESEARCH IN THE MEDICAL COMMUNITY TO IDENTIFY THE CAUSES AND DEVELOP A CURE FOR THE DISEASE, AND TO DECLARE MAY 2023 AS "BLADDER CANCER AWARENESS MONTH" IN SOUTH CAROLINA.

Senator VERDIN asked unanimous consent to make a motion to recall the Resolution from the Committee on Medical Affairs.

The Resolution was recalled from the Committee on Medical Affairs.

Senator VERDIN asked unanimous consent to make a motion to take the Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Resolution. The question then was the adoption of the Resolution.

On motion of Senator VERDIN, the Resolution was adopted.

RECALLED

H. 4206 (Word version) -- Reps. Bailey, Alexander, Anderson, Atkinson, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B.J. Cox, B.L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J.E. Johnson, J.L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A.M. Morgan, T.A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G.M. Smith, M.M. Smith, Stavrinakis, Taylor, Tedder, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO PROCLAIM APRIL 27, 2023, AS "BOULINEAU'S IGA HERITAGE DAY" IN SOUTH CAROLINA

Senator SHEALY asked unanimous consent to make a motion to recall the Resolution from the Committee on Family and Veterans' Services.

The Resolution was recalled from the Committee on Family and Veterans' Services and ordered placed on the Calendar for consideration tomorrow.

RECALLED

H. 4237 (Word version) -- Reps. Felder, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B.J. Cox, B.L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J.E. Johnson, J.L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A.M. Morgan, T.A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G.M. Smith, M.M. Smith, Stavrinakis, Taylor, Tedder, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO DECLARE AUGUST 8, 2023, "CLOG DANCING DAY" IN THE PALMETTO STATE.

Senator SHEALY asked unanimous consent to make a motion to recall the Resolution from the Committee on Family and Veterans' Services.

The Resolution was recalled from the Committee on Family and Veterans' Services and ordered placed on the Calendar for consideration tomorrow.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 706 (Word version) -- Senator Matthews: A SENATE RESOLUTION TO RECOGNIZE AND HONOR ROBIN ROBERTS FOR HER PROFESSIONAL ACHIEVEMENTS AND HER COMMITMENT TO HEALTH AND WELLNESS PROMOTION.

The Senate Resolution was adopted.

S. 707 (Word version) -- Senator Setzler: A SENATE RESOLUTION TO CONGRATULATE MR. CHARLES RAY SHEALY ON THE OCCASION OF HIS ONE HUNDREDTH BIRTHDAY AND TO WISH HIM A JOYOUS BIRTHDAY CELEBRATION AND MUCH HAPPINESS IN THE DAYS AHEAD.

The Senate Resolution was adopted.

S. 708 (Word version) -- Senators Young and Shealy: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-11-420, RELATING TO DEFINITIONS PERTAINING TO THE SOUTH CAROLINA CHILDREN'S ADVOCACY MEDICAL RESPONSE SYSTEM, SO AS TO DEFINE CHILD ABUSE MEDICAL SERVICES; AND BY AMENDING SECTION 63-11-430, RELATING TO PROGRAM REQUIREMENTS, SO AS TO PROVIDE FOR THE INCLUSION OF SOUTH CAROLINA NETWORK OF CHILDREN'S ADVOCACY CENTERS AND CHILDREN'S HOSPITALS IN THE PROGRAM.

Read the first time and referred to the Committee on Family and Veterans' Services.

S. 709 (Word version) -- Senator Shealy: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-56-10, RELATING TO THE STATE BOARD OF PYROTECHNIC SAFETY, SO AS TO ADD TWO MEMBERS TO THE BOARD.

Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 710 (Word version) -- Banking and Insurance Committee: A JOINT RESOLUTION REGULATION TO APPROVE REGULATIONS OF THE STATE BOARD OF FINANCIAL INSTITUTIONS - CONSUMER FINANCE DIVISION, RELATING TO CHECK-CASHING SERVICE: PURCHASE OF GOODS OR SERVICES, DESIGNATED AS REGULATION DOCUMENT NUMBER 5141, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Read the first time and ordered placed on the Calendar without reference.

S. 711 (Word version) -- Banking and Insurance Committee: A JOINT RESOLUTION REGULATION TO APPROVE REGULATIONS OF THE STATE BOARD OF FINANCIAL INSTITUTIONS - CONSUMER FINANCE DIVISION, RELATING TO CHECK-CASHING SERVICE, DESIGNATED AS REGULATION DOCUMENT NUMBER 5140, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Read the first time and ordered placed on the Calendar without reference.

S. 712 (Word version) -- Senators Goldfinch and Campsen: A CONCURRENT RESOLUTION TO ENCOURAGE THE SOUTH CAROLINA CONGRESSIONAL DELEGATION TO ASSIST IN FINDING REASONABLE SOLUTIONS TO PROTECT NORTH ATLANTIC RIGHT WHALES AND SOUTH CAROLINA'S COASTAL CULTURE AND ECONOMY.

The Concurrent Resolution was introduced and referred to the Committee on Agriculture and Natural Resources.

S. 713 (Word version) -- Senator Fanning: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME PINCKNEY STREET IN THE CITY OF YORK IN YORK COUNTY "DR. MARTIN LUTHER KING, JR. BOULEVARD" AND ERECT APPROPRIATE MARKERS OR SIGNS AT ITS INTERSECTION WITH

SOUTH CAROLINA HIGHWAY 49/SOUTH CONGRESS STREET AND ITS INTERSECTION WITH UNITED STATES HIGHWAY 321 CONTAINING THESE WORDS.

The Concurrent Resolution was introduced and referred to the Committee on Transportation.

S. 714 (Word version) -- Senator Bennett: A CONCURRENT RESOLUTION TO RECOGNIZE JULY 22, 2023, AS "FRAGILE X DAY" IN SOUTH CAROLINA IN ORDER TO HELP RAISE AWARENESS OF THE CONDITION AND THE NEED FOR INCREASED RESEARCH FUNDING AND TO SUPPORT INDIVIDUALS AND FAMILIES LIVING WITH FRAGILE X.

The Concurrent Resolution was introduced and referred to the Committee on Medical Affairs.

S. 715 (Word version) -- Senator Davis: A SENATE RESOLUTION TO PROCLAIM WEDNESDAY, APRIL 26, 2023, AS "SOUTH CAROLINA PROFESSIONAL LAND SURVEYORS DAY" THROUGHOUT THE STATE AND TO RECOGNIZE THE IMPORTANCE OF THE SERVICES PROVIDED BY THIS GROUP OF PROFESSIONALS TO THE PALMETTO STATE.

The Senate Resolution was introduced and referred to the Committee on Labor, Commerce and Industry.

S. 716 (Word version) -- Senator Cromer: A SENATE RESOLUTION TO RECOGNIZE AND HONOR CLARENCE A. "C.A." SHEALY III, PLS, OWNER OF SHEALY LAND SURVEYING, AND TO CONGRATULATE HIM FOR BEING NAMED THE 2022-2023 SURVEYOR OF THE YEAR.

The Senate Resolution was adopted.

S. 717 (Word version) -- Senator Williams: A SENATE RESOLUTION TO PROCLAIM SEPTEMBER 2023 AS "CHILDHOOD CANCER AWARENESS MONTH" IN THE STATE OF SOUTH CAROLINA AND TO ENCOURAGE ALL SOUTH CAROLINIANS TO SUPPORT THIS CAUSE THAT SO DEEPLY IMPACTS FAMILIES IN EVERY COMMUNITY ACROSS THE STATE AND NATION.

The Senate Resolution was introduced and referred to the Committee on Medical Affairs.

H. 3142 (Word version) -- Reps. Rivers, Leber, Wheeler, Dillard, W. Jones, Gilliard, King, Henegan, Williams, McDaniel, Alexander, Clyburn, Hosey, Cobb-Hunter, Jefferson, Anderson, Kirby and Weeks: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DESIGNATE THE THIRTEENTH DAY OF MAY EACH YEAR AS "ROBERT SMALLS DAY" IN SOUTH CAROLINA.

Read the first time and referred to the Committee on Family and Veterans' Services.

H. 4122 (Word version) -- Reps. Erickson, Wetmore, Guffey, M. M. Smith, Bradley, Caskey, Williams, Hager, Schuessler, Connell, Wooten, Landing, Cromer, Kilmartin, Calhoon, Felder, Jordan, Bannister, Pedalino, Taylor, Davis, Oremus, Collins, Tedder, Hyde, T. Moore, Trantham, Brittain, B. Newton, Forrest, Bernstein, Bauer, Neese, B. J. Cox, Elliott, Dillard, Gagnon, Hayes, Herbkersman, Chapman and Blackwell: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-63-95, RELATING TO THE AUTHORIZED USE OF EPINEPHRINE AUTO-INJECTORS IN SCHOOLS, SO AS TO EXPAND THE PROVISIONS OF THIS SECTION TO INCLUDE THE PROVISION OF LIFESAVING MEDICATIONS, AND TO PROVIDE CERTAIN RELATED RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE DEPARTMENT OF EDUCATION.

Read the first time and referred to the Committee on Education.

H. 4215 (Word version) -- Rep. Hyde: A BILL TO AMEND ACT 106 OF 2015, RELATING TO THE ELECTION DISTRICTS FROM WHICH MEMBERS OF THE SPARTANBURG COUNTY SCHOOL DISTRICT 5 BOARD OF TRUSTEES MUST BE ELECTED, SO AS TO REAPPORTION THESE ELECTION DISTRICTS, TO REDESIGNATE THE MAP

NUMBER ON WHICH THESE DISTRICTS ARE DELINEATED AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO PROVIDE DEMOGRAPHIC INFORMATION REGARDING THESE REVISED ELECTION DISTRICTS.

Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 4216 (Word version) -- Rep. Hyde: A BILL TO AMEND ACT 107 OF 2015, RELATING TO THE ELECTION DISTRICTS FROM WHICH MEMBERS OF THE SPARTANBURG COUNTY SCHOOL DISTRICT 7 BOARD OF TRUSTEES MUST BE ELECTED, SO AS TO REAPPORTION THESE ELECTION DISTRICTS, TO REDESIGNATE THE MAP NUMBER ON WHICH THESE DISTRICTS ARE DELINEATED AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO PROVIDE DEMOGRAPHIC INFORMATION REGARDING THESE REVISED ELECTION DISTRICTS.

Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 4288 (Word version) -- Reps. Erickson, McGinnis, Ballentine, Alexander, Anderson, Atkinson, Bailey, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Gufley, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Stavrinakis, Taylor, Tedder, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE APRIL 19, 2023 AS "SOUTH CAROLINA HIGHER EDUCATION DAY."

The Concurrent Resolution was introduced and referred to the Committee on Education.

REPORTS OF STANDING COMMITTEES

Senator ALEXANDER from the Committee on Operations and Management polled out S. 633 favorable:

S. 633 (Word version) -- Senator Verdin: A SENATE RESOLUTION TO AUTHORIZE THE GREENVILLE YOUNG MEN'S CHRISTIAN ASSOCIATION TO USE THE CHAMBER OF THE SOUTH CAROLINA SENATE AND ANY AVAILABLE COMMITTEE HEARING ROOMS IN THE GRESSETTE BUILDING FOR ITS YOUTH IN GOVERNMENT PROGRAM ON THURSDAY, NOVEMBER 2 AND FRIDAY, NOVEMBER 3 AND MONDAY, NOVEMBER 13, 2023. HOWEVER, THE CHAMBER MAY NOT BE USED IF THE SENATE IS IN SESSION OR THE CHAMBER IS OTHERWISE UNAVAILABLE.

Poll of the Operations and Management Committee

Polled 9; Ayes 9; Nays 0

AYES

Alexander Peeler Rankin Malloy Massey Shealy Turner Hutto Setzler

Total--9

NAYS

Total--0

Ordered for consideration tomorrow.

Adopted

S. 633 (Word version) -- Senator Verdin: A SENATE RESOLUTION TO AUTHORIZE THE GREENVILLE YOUNG MEN'S CHRISTIAN ASSOCIATION TO USE THE CHAMBER OF THE SOUTH CAROLINA SENATE AND ANY AVAILABLE COMMITTEE HEARING ROOMS IN THE GRESSETTE BUILDING FOR ITS YOUTH IN GOVERNMENT PROGRAM ON THURSDAY, NOVEMBER 2 AND FRIDAY, NOVEMBER 3 AND MONDAY, NOVEMBER 13, 2023. HOWEVER, THE CHAMBER MAY NOT BE USED IF THE SENATE IS IN SESSION OR THE CHAMBER IS OTHERWISE UNAVAILABLE.

Senator VERDIN asked unanimous consent to make a motion to take the Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Resolution. The question then was the adoption of the Resolution.

On motion of Senator VERDIN, the Resolution was adopted.

Senator SHEALY from the Committee on Family and Veterans' Services polled out H. 3514 favorable:

H. 3514 (Word version) -- Reps. Ott, B. Newton, Murphy, Cobb-Hunter, Caskey, Kirby, Collins, Forrest, Bernstein, Wheeler, Taylor, Wetmore, J. Moore, Atkinson, Henegan, Blackwell, J.L. Johnson, Brewer, W. Newton, Herbkerman, Erickson, M.M. Smith and Leber: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 52-5-300 BY ENACTING THE "SOUTH CAROLINA EQUINE ADVANCEMENT ACT" TO ESTABLISH A GRANT PROGRAM TO ASSIST THE GROWTH AND DEVELOPMENT OF THE EQUINE INDUSTRY IN SOUTH CAROLINA; BY ADDING SECTION 52-5-310 SO AS TO PROVIDE DEFINITIONS; BY ADDING SECTION 52-5-320 SO AS TO ESTABLISH THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-330 SO AS TO ESTABLISH THE POWERS OF THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-340 SO AS TO PROVIDE ADMINISTRATIVE SUPPORT FOR THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-350 SO AS TO PROVIDE GUIDELINES FOR PARI-MUTUEL WAGERING; BY ADDING SECTION 52-5-360 SO AS TO PROVIDE APPLICATION GUIDELINES FOR PARI-MUTUEL WAGERING; BY ADDING SECTION 52-5-370 SO AS TO PROVIDE FOR APPLICATION AND LICENSE FEES; BY ADDING SECTION 52-5-380 SO AS TO PROVIDE FOR THE EQUINE INDUSTRY DEVELOPMENT FUND; BY ADDING SECTIONS 52-5-390 AND 52-5-400 SO AS TO PROVIDE GUIDELINES AND PROTECTIONS FOR COMMITTEE MEMBERS; AND BY ADDING SECTION 52-5-410 SO AS TO REQUIRE THE COMMISSION TO SUBMIT AN ANNUAL REPORT.

Poll of the Family and Veterans' Services Committee

Polled 17; Ayes 16; Nays 1

AYES

Shealy Young K. Johnson McElveen Climer Fanning McLeod Talley Gambrell Harpootlian Adams Gustafson M. Johnson
Kimbrell Stephens Reichenbach

Total--16

NAYS

Cash

Total--1

Ordered for consideration tomorrow.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

OBJECTION

S. 303 (Word version) -- Senators Shealy, McElveen, Gustafson, Talley, Davis, Adams, Kimbrell, Jackson, Rankin, Harpootlian, M. Johnson, Hutto, Sabb, Matthews, Fanning, Gambrell, Peeler, Cromer, Goldfinch and McLeod: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 52-5-300 SO AS TO ENACT THE SOUTH CAROLINA EQUINE ADVANCEMENT ACT TO ESTABLISH A GRANT PROGRAM TO ASSIST THE GROWTH AND DEVELOPMENT OF THE EQUINE INDUSTRY IN SOUTH CAROLINA; BY ADDING SECTION 52-5-310 SO AS TO PROVIDE DEFINITIONS; BY ADDING SECTION 52-5-320 SO AS TO ESTABLISH THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-330 SO AS TO ESTABLISH THE POWERS OF THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-340 SO AS TO PROVIDE ADMINISTRATIVE SUPPORT FOR THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-350 SO AS TO PROVIDE GUIDELINES FOR PARI-MUTUEL WAGERING; BY ADDING SECTION 52-5-360 SO AS TO PROVIDE APPLICATION GUIDELINES FOR PARI-MUTUEL WAGERING; BY ADDING SECTION 52-5-370 SO AS TO PROVIDE FOR APPLICATION AND LICENSE FEES; BY ADDING SECTION 52-5-380 SO AS TO PROVIDE FOR THE EQUINE INDUSTRY DEVELOPMENT FUND; BY ADDING SECTION 52-5-390 AND SECTION 52-5-400 SO AS TO PROVIDE GUIDELINES AND PROTECTIONS FOR COMMITTEE MEMBERS; BY ADDING SECTION 52-5-410 SO AS TO REQUIRE THE COMMISSION TO SUBMIT AN ANNUAL REPORT.

Senator CAMPSER objected to consideration of the Bill.

CARRIED OVER

H. 3605 (Word version) -- Reps. G.M. Smith, Sandifer, Carter, Kirby, Oremus, Magnuson, Pace, Long, Elliott, Burns, May, Beach, Forrest, Blackwell, B. Newton, Caskey and Ligon: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-1-80, RELATING TO INVESTIGATIONS OF LICENSEES, SO AS TO REQUIRE THE DIRECTOR TO SEND INFORMATION REGARDING AN INVESTIGATION TO THE LICENSEE; BY ADDING SECTION 40-1-85 SO AS TO ESTABLISH INFORMAL CONFERENCES; BY AMENDING SECTION 40-1-90, RELATING TO DISCIPLINARY ACTION PROCEEDINGS, SO AS TO ALLOW A LICENSEE TO REQUEST CERTIFICATION OF AN INVESTIGATION FROM THE DIRECTOR; AND BY AMENDING SECTION 40-1-140, RELATING TO EFFECT OF PRIOR CRIMINAL CONVICTIONS OF APPLICANTS, SO AS TO PROHIBIT THE DENIAL OF A LICENSE BASED SOLELY OR IN PART ON A PRIOR CRIMINAL CONVICTION IN CERTAIN CIRCUMSTANCES.

The Senate proceeded to the consideration of the Bill.

The Committee on Labor, Commerce and Industry proposed the following amendment (SR-3605.JG0005S):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

SECTION X. This act may be cited as the "Earn and Learn Act of 2023".

Amend the bill further, by adding an appropriately numbered SECTION to read:

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

Section 40-1-77. (A) 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.

(B) For purposes of this section:

(1) "Apprenticeship" means a United States Department of Labor-approved and registered apprenticeship or an industry recognized apprenticeship for an occupation or profession licensed by a South Carolina regulatory board or commission under the South Carolina Department of Labor, Licensing and Regulation, as approved by the applicable licensing board.

(2) "Board" means a board, commission, or panel under the South Carolina Department of Labor, Licensing and Regulation 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.

(C) A board shall issue an initial license pursuant to this section 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;

(3) submits a completed application and pays all applicable fees;

(4) is not otherwise disqualified from licensure because of an applicable criminal conviction; and

(5) completes all other requirements for initial licensure as required by the applicable licensing board in accordance with state law, only if the board imposes the same requirements on other license applicants. A board shall not require an applicant pursuant to this section to complete requirements that exceed the requirements of other license applicants for initial licensure.

(D) If a board denies a license to an applicant under this section, then the board shall:

(1) provide the applicant with a denial in writing; and

(2) explain the reason for the denial in the written decision, such as whether the licensing entity determined that the applicant's apprenticeship program does not correspond to the profession or occupation or level of license for which the applicant applied.

(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 which 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 may promulgate regulations necessary for the implementation of this act.

(J) This section does not apply to:

- (1) a licensing entity that does not license individual workers for which there is a board-approved apprenticeship program;
- (2) a license that requires the educational equivalent of a bachelor's degree or higher; or
- (3) apprenticeship programs that are established by state law.

Renumber sections to conform.

Amend title to conform.

Senator CLIMER explained the amendment.

On motion of Senator CLIMER, the Bill was carried over.

CARRIED OVER

S. 640 (Word version) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO WATER CLASSIFICATIONS AND STANDARDS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5119, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE I OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator GOLDFINCH, the Resolution was carried over.

CARRIED OVER

S. 641 (Word version) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION - BOARD OF VETERINARY MEDICAL EXAMINERS, RELATING TO DEFINITIONS; PRACTICE STANDARDS FOR LICENSED VETERINARY TECHNICIANS AND UNLICENSED VETERINARY AIDES; LICENSURE AND EXAMINATIONS FOR VETERINARIANS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5121, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE I OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator BENNETT, the Resolution was carried over.

RECOMMITTED

S. 642 (Word version) -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO WILDLIFE MANAGEMENT AREA REGULATIONS; BEAR HUNTING RULES AND SEASONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5165, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE I OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator CAMPSER, the Resolution was recommitted to the Committee on Fish, Game and Forestry.

RECOMMITTED

S. 646 (Word version) -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION-PANEL FOR MASSAGE/BODYWORK, RELATING TO UPDATING REGULATIONS TO CONFORM WITH THE ENACTMENT OF S. 227, DESIGNATED AS REGULATION DOCUMENT NUMBER 5132, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE I OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator MASSEY, the Resolution was recommitted to the Committee on Labor, Commerce and Industry.

RECOMMITTED

S. 647 (Word version) -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION - BOARD OF ACCOUNTANCY, RELATING TO UPDATING REGULATIONS TO CONFORM WITH THE ENACTMENT OF S. 812, DESIGNATED AS REGULATION DOCUMENT NUMBER 5149, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator MASSEY, the Resolution was recommitted to the Committee on Labor, Commerce and Industry.

CARRIED OVER

S. 95 (Word version) -- Senators Campsen, Senn, Verdin, M. Johnson, Kimbrell, Gustafson, Young, Grooms and Fanning: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO DELETE THE COMPTROLLER GENERAL FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE COMPTROLLER GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE COMPTROLLER GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION.

The Senate proceeded to the consideration of the Resolution.

The Committee on Judiciary proposed the following amendment (SJ-95.PB0012S):

Amend the joint resolution, as and if amended, by striking SECTION 1 and inserting:

SECTION X.A. It is proposed that Section 7, Article VI of the Constitution of this State be amended to read:

Section 7. There shall be elected by the qualified voters of the State a Secretary of State, an Attorney General, a Treasurer, a Superintendent of Education, Comptroller General, Commissioner of Agriculture, and an Adjutant General who shall hold their respective offices for a term of four years, coterminous with that of the Governor. The duties and compensation of such offices shall be prescribed by law and their compensation shall be neither increased nor diminished during the period for which they shall have been elected.

Beginning upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Adjutant General must be appointed by the Governor, upon the advice and consent of the Senate. The appointed Adjutant General shall serve for a term not coterminous with the Governor and may be removed only for cause. The General Assembly shall provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office.

Beginning upon the expiration of the term of the Comptroller General serving in office on the date of the ratification of the provisions of this paragraph, the Comptroller General must be appointed by the Governor, upon the advice and consent of the Senate. The General Assembly shall provide by law for the term, duties, compensation, and qualifications for the office, the procedures by which the appointment is made, and the procedures by which the Comptroller General may be removed from office.

B. It is proposed that Section 12, Article IV of the Constitution of this State be amended to read:

Section 12. (1) Whenever the Governor transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as acting Governor.

(2) Whenever a majority of the Attorney General, the Secretary of State, ~~the Comptroller General~~, and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall forthwith assume the powers and duties of the office as acting Governor.

Thereafter, if the Governor transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that no such inability exists, he shall forthwith resume the powers and duties of his office unless a majority of the above members or of such other body, whichever the case may be, transmits within four days to the President of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon, the General Assembly shall forthwith consider and decide the issue, and if not in session, it shall assemble within forty-eight hours for the sole purpose of deciding such issue. If the General Assembly, within twenty-one days, excluding Sundays, after the first day it meets to decide the issue, determines by two-thirds vote of each House that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.

C. It is proposed that Section 13, Article X of the Constitution of this State be amended to read:

Section 13. (1) Subject to the conditions and limitations in this section, the State shall have power to incur indebtedness in the following categories and in no others: (a) general obligation debt; and (b) indebtedness payable only from a revenue-producing project or from a special source as provided in subsection (9) hereof.

(2) "General obligation debt" shall mean any indebtedness of the State which shall be secured in whole or in part by a pledge of the full faith, credit and taxing power of the State.

(3) General obligation debt may not be incurred except for a public purpose and all general obligation debt shall mature not later than thirty years from the time such indebtedness shall be incurred.

(4) In each act authorizing the incurring of general obligation debt the General Assembly shall allocate on an annual basis sufficient tax revenues to provide for the punctual payment of the principal of and interest on such general obligation debt. If at any time any payment due as the principal of or interest on any general obligation debt shall not be paid as and when the same become due and payable, the ~~State Comptroller General~~ Governor shall forthwith levy and the State Treasurer shall collect an ad valorem tax without limit as to rate or amount upon all taxable property in the State sufficient to meet the payment of the principal and interest of such general obligation debt then due.

(5) If general obligation debt be authorized by (a) two-thirds of the members of each House of the General Assembly; or (b) by a majority vote of the qualified electors of the State voting in a referendum called by the General Assembly there shall be no conditions or restrictions limiting the incurring of such indebtedness except (i) those restrictions and limitations imposed in the authorization to incur such indebtedness, and (ii) the provisions of subsection (3) hereof.

(6) General obligation debt may be also incurred on such terms and conditions as the General Assembly may by law prescribe under the following limitations:

(a) General obligation bonds for highway purposes (highway bonds) may be issued if such bonds shall be additionally secured by a pledge of the revenues derived from the "sources of revenue" as such term is defined in this subsection; provided, that the maximum annual debt service on all highway bonds so additionally secured which shall thereafter be outstanding shall not exceed fifteen percent of the proceeds received from the sources of revenue for the fiscal year next preceding.

For the purpose of this subsection, the term "sources of revenue" shall mean so much of the revenues as may be made applicable by the General Assembly for state highway purposes from any and all taxes or licenses imposed upon individuals or vehicles for the privilege of using the public highways of the State.

(b) General obligation bonds for any state institution of higher learning designated by the General Assembly (state institution bonds) may be issued, if such bonds shall be additionally secured by a pledge of the revenues derived from the tuition fees received by the particular institution of higher learning for which such state institution bonds are issued; provided, that the maximum annual debt service on all state institution bonds so additionally secured issued for such state institution thereafter to be outstanding shall not exceed ninety percent of the sums received by such state institution of higher learning from tuition fees for the fiscal year next preceding.

(c) General obligation bonds for any public purpose including those purposes set forth in (a) and (b) may be issued; provided, that the maximum annual debt service on all general obligation bonds of the State thereafter to be outstanding (excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes) must not exceed five percent of the general revenues of the State for the fiscal year next preceding (excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds).

Upon implementation of the provisions of this item by law, the percentage rate of general revenues may be reduced to four or increased to seven percent by legislative enactment passed by a two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

During the regular session of the General Assembly in 1990 and during every fifth annual regular session thereafter, the General Assembly shall conduct and complete a review of the law implementing this item. Unless during such session that review results in an amendment to or repeal of the law implementing this item, which must be accomplished by legislative enactment passed by a two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

(7) General obligation indebtedness may be incurred in anticipation of state tax collections (tax anticipation notes) under such terms and conditions as the General Assembly may prescribe by law. Such tax anticipation notes shall be secured by a pledge of such taxes and by a pledge of the full faith, credit and taxing power of the State. All tax anticipation notes shall be expressed to mature not later than ninety days from the end of the fiscal year in which such notes are issued.

(8) General obligation notes may be issued in anticipation of the proceeds of general obligation bonds which may be lawfully issued (bond anticipation notes) under terms and conditions which the General Assembly may prescribe by law. Such bond anticipation notes shall be secured by a pledge of the proceeds of the bonds in anticipation of which such bond anticipation notes are issued and by a pledge of the full faith, credit and taxing power of the State.

Bond anticipation notes shall be expressed to mature not later than one year following the date of issuance, but if the General Assembly shall so authorize by law, bond anticipation notes may be refunded or renewed.

(9) The General Assembly may authorize the State or any of its agencies, authorities or institutions to incur indebtedness for any public purpose payable solely from a revenue-producing project or from a special source, which source does not involve revenues from any tax but may include fees paid for the use of any toll bridge, toll road or tunnel. Such indebtedness may be incurred upon such terms and conditions as the General Assembly may prescribe by law. All indebtedness incurred pursuant to the provisions of this subsection shall contain a statement on the face thereof specifying the sources from which payment is to be made.

Amend the joint resolution further, by striking the undesignated paragraph containing the question to be submitted to the voters and inserting:

"Must Section 7, Article VI of the Constitution of this State relating to state constitutional officers be amended so as to delete the Comptroller General from the list of state officers that the Constitution requires to be elected; provide that upon the expiration of the term of the Comptroller General serving in office on the date of the ratification of this provision, the Comptroller General must be appointed by the Governor, upon the advice and consent of the Senate; and require the General Assembly to provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and

the procedures by which the Comptroller General may be removed from office; and must Section 12, Article IV be amended so as to delete the Comptroller General's name from the list of elected state constitutional officers a majority of which may submit a written declaration that the Governor is unable to discharge his duties; and must Section 13, Article X be amended so as to provide if the principal of or interest on any general obligation debt is not paid when due, that instead of an appointed Comptroller General, the Governor, an elected state constitutional officer, shall levy an ad valorem tax to meet the payment"

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment.

On motion of Senator MALLOY, the Resolution was carried over.

OBJECTION

H. 3014 (Word version) -- Reps. Gilliard, Henegan, Ott, Collins, Carter, Murphy, Robbins, Brewer, Gatch, Kirby, Anderson, Rivers, Howard, King, McDaniel, Hosey, Clyburn, Cobb-Hunter, Bamberg, Williams, Bernstein, W. Newton, Herbkersman, Hyde, Brittain, Guest, Erickson, Bradley, Hager, Connell, Hewitt, Rutherford, Thigpen, B. Newton, McGinnis, Hardee, Hixon, Taylor, Sandifer, M.M. Smith, Wetmore, Bustos, Landing, Elliott, Pope, Felder, Stavrinakis, Rose, Neese, Davis, Wooten, Bannister, Wheeler, Bailey, Schuessler, Blackwell, W. Jones, Dillard, Bauer, Sessions, T. Moore, J.L. Johnson, Jefferson, B.J. Cox, Garvin, B.L. Cox, Tedder and Alexander: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "CLEMENTA C. PINCKNEY HATE CRIMES ACT"; BY ADDING ARTICLE 22 TO CHAPTER 3, TITLE 16 SO AS TO ENTITLE THE ARTICLE "PENALTY ENHANCEMENTS FOR CERTAIN CRIMES", TO PROVIDE ADDITIONAL PENALTIES FOR PERSONS WHO COMMIT CERTAIN DELINEATED CRIMES WHEN THE VICTIM WAS INTENTIONALLY SELECTED BASED ON CERTAIN FACTORS, AND TO PROVIDE VICTIMS OF A VIOLATION OF THE ARTICLE MAY BRING A CIVIL ACTION FOR DAMAGES SUSTAINED.

Senator CASH objected to consideration of the Bill.

CARRIED OVER

H. 3209 (Word version) -- Reps. Jordan, Murphy, Brewer, Williams, Henegan and Alexander: A JOINT RESOLUTION TO EXTEND CERTAIN GOVERNMENTAL APPROVALS AFFECTING ECONOMIC DEVELOPMENT WITHIN THE STATE.

On motion of Senator HUTTO, the Resolution was carried over.

OBJECTION

H. 3866 (Word version) -- Rep. Rutherford: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-7-95 SO AS TO CLARIFY THAT, WHEN THE ATTORNEY GENERAL PROCEEDS IN THE PUBLIC INTEREST, THE ATTORNEY GENERAL DOES NOT UNDERTAKE REPRESENTATION OF STATE AGENCIES AND CANNOT BE CONSIDERED TO HAVE POSSESSION, CUSTODY, OR CONTROL OVER STATE AGENCY DOCUMENTS OR ELECTRONICALLY STORED INFORMATION; AND BY ADDING SECTION 39-5-55 SO AS TO SPECIFY THAT THE ATTORNEY GENERAL IS ACTING IN THE PUBLIC INTEREST OF THE STATE IN UNFAIR TRADE PRACTICE PROCEEDINGS, AND TO PROVIDE AN EXCEPTION.

The Senate proceeded to the consideration of the Bill.

The Committee on Judiciary proposed the following amendment (SJ-3866.PB0004S):

Amend the bill, as and if amended, by deleting SECTION 3.

Renumber sections to conform.

Amend title to conform.

Senator SENN explained the amendment.

Senator KIMBRELL objected to further consideration of the Bill.

CARRIED OVER

S. 698 (Word version) -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF CLEMSON UNIVERSITY, RELATING TO PARKING, TRAFFIC, AND PUBLIC SAFETY REGULATIONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5108, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE I OF THE SOUTH CAROLINA CODE OF LAWS.

The Senate proceeded to the consideration of the Resolution.

Senator HEMBREE explained the Resolution.

On motion of Senator HEMBREE, the Resolution was carried over.

ADOPTED

H. 3959 (Word version) -- Reps. S. Jones, Gilliam, McCravy, Willis and Gagnon: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 72 IN LAURENS COUNTY FROM ITS INTERSECTION WITH DOVE FIELD ROAD TO ITS INTERSECTION WITH CRYSTAL BAY DRIVE "SAMUEL J. MCCALL, JR. MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY CONTAINING THESE WORDS.

The Resolution was adopted, ordered returned to the House.

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MOTION ADOPTED

At 1:23 P.M., on motion of Senator MASSEY, the Senate agreed to dispense with the balance of the Motion Period.

THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.

CARRIED OVER

S. 604 (Word version) -- Senators Peeler, Alexander, Setzler, Malloy and Scott: A JOINT RESOLUTION TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE AMERICAN RESCUE PLAN ACT OF 2021, AND TO SPECIFY THE MANNER IN WHICH THE FUNDS MAY BE EXPENDED.

On motion of Senator GAMBRELL, the Resolution was carried over.

THE SENATE PROCEEDED TO THE SPECIAL ORDERS.

READ THE SECOND TIME

H. 3532 (Word version) -- Reps. G.M. Smith, Pope, McCravy, B. Newton, West, Chapman, Burns, Wooten, Haddon, O'Neal, Carter, W. Newton, M.M. Smith, Davis, Pace, B.L. Cox, Gilliam, Thayer, Bailey, Hardee, Blackwell, Leber, Mitchell, Chumley, Ligon, Hiott, Yow, Landing, Hixon, Taylor, Oremus, Cromer and J.E. Johnson: 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.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Amendment No. 1

Senator HEMBREE proposed the following amendment (SEDU-3532.DB0043S), which was carried over:

Amend the bill, as and if amended, by deleting SECTION 1.

Amend the bill further, SECTION 2, by striking Section 17-15-15(D) and inserting:

(D) The provisions of this section do not apply if the defendant is charged with a violent offense, as defined by Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release. 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 whether the bond is posted by the defendant or with a bondsman. After the defendant fulfills the conditions of the bond, the clerk shall return the cash bond amount paid to the defendant. However, in the event the defendant is required by the court to make restitution to the victim of his crime, the cash bond may be used for the purpose of such restitution.

Any currency cash 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. Additionally, the court may impose any other conditions allowed under Chapter 15 of Title 17 and other law.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 17-15-30 of the S.C. Code is amended to read:

Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and

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

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

(1) a person's criminal record;

(2) any current charges pending against a person and any prior charges 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 a person is currently out on bond for another offense.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

(a) a person's criminal record;

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

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

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

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

Amend the bill further, SECTION 3, by striking Section 17-15-55(C), (D), and (E) and inserting:

(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~~ original offense must be ~~revoked and a hearing for the subsequent violent offense or any felony offense involving a firearm must be held in the circuit court within thirty~~ days;

(2) during the bond hearing for the subsequent violent offense or felony offense involving a firearm, the court must issue findings of fact and conclusions of law addressing the revocation of bond for the original offense, whether a new bond is issued for the previous offense as well as if bond is appropriate for the subsequent violent offense or felony offense involving a firearm.

(3) 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, notwithstanding if posted by the person, his representative, or by a bond surety. If a 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.;

(4) ~~4~~ 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; and:

(~~D~~) ~~(5)~~ if a person commits a violent ~~offense~~~~crime~~, as defined in Section 16-1-60, or 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 ~~offense~~~~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 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.

(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.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 22-5-510 of the S.C. Code is amended to read:

Section 22-5-510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. "Violent offenses" as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

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

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

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

(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 a 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.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

SECTION X. Section 24-13-40 of the S.C. Code is amended to read:

Section 24-13-40. The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; ~~or~~ (2)

when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

Renumber sections to conform.

Amend title to conform.

Senator HEMBREE explained the Bill and amendment.

On motion of Senator HEMBREE, the amendment was carried over.

Amendment No. 2

Senator ADAMS proposed the following amendment (SEDU-3532.DB0046S), which was carried over:

Amend the bill, as and if amended, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 38-53-10(12) of the S.C. Code is amended to read:

(12) "Surety bondsman" means any person who is approved by and licensed by the director or his designee as ~~an~~ a property and casualty insurance agent, appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and receives or is promised money or other things of value for the execution or countersignature.

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

Section 38-53-10(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 X. 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 X. 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~~ must 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 X. 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 X. 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 X. [Section 38-53-170\(e\)](#) and [\(f\)](#) of the S.C. Code are amended to read:

(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 exceeds 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 with three days after settlement;

Section 38-53-170(f) of the S.C. Code is amended to read:

(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

SECTION X. 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.

Renumber sections to conform.

Amend title to conform.

Senator ADAMS explained the amendment.

On motion of Senator ADAMS, the amendment was carried over.

Amendment No. 3A

Senator HARPOOTLIAN proposed the following amendment (SMIN-3532.MW0049S), which was carried over:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 17-15-280. (A) To protect the fundamental rights of the accused and to advance the State's interest in speedy resolution of criminal trials, any person charged with a noncapital offense who is denied bond shall be brought to trial within one year of arrest or be released on his own recognizance.

(B) It shall be the duty of the court to ensure that the defendant is tried within the time specified above. No trial shall commence unless the prosecuting attorney first certifies to the court that discovery was fully produced at least thirty days prior and that all exculpatory information possessed by the prosecution team, including law enforcement, has been disclosed to the defendant and his counsel.

(C) Any extension of time requested and obtained by the defendant, on any delay attributable to the defendant's post-arrest conduct, shall be excluded from any calculation of the trial deadline.

(D) Any court of competent jurisdiction that finds that a defendant has not been brought to trial within the time set forth above, shall release the defendant on his own recognizance pursuant to conditions set forth in Section 17-15-10(A), unless good cause be shown to the court and the court makes a finding of fact, memorialized in written order, and a certain trial date set.

Renumber sections to conform.

Amend title to conform.

Senator HARPOOTLIAN explained the amendment.

On motion of Senator HARPOOTLIAN, the amendment was carried over.

Amendment No. 4

Senator MALLOY proposed the following amendment (SJ-3532.BM0047S):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 17-15-500. (A) There is established the South Carolina Pretrial Reform Commission composed of fifteen members as follows:

- (1) three members to be appointed by the chairman of the Senate Judiciary Committee;
- (2) three members to be appointed by the chairman of the House of Representatives Judiciary Committee;
- (3) three members of the judiciary to be appointed by the Chief Justice of the South Carolina Supreme Court;
- (4) three members of the executive branch to be appointed by the Governor; and
- (5) three members of the directly impacted community, including one crime survivor, one person that has been through the pretrial system, and a community member at large to be jointly appointed by the chairmen of both the House and Senate Judiciary Committees.

(B) The members of the commission may begin meeting when at least a quorum has been appointed and shall elect one member to serve as chairman. A quorum shall consist of at least eight members.

(C) The primary duty of the South Carolina Pretrial Reform Commission is to prepare a comprehensive report that reviews and recommends:

(1) appropriate changes to the current pretrial system for all criminal offenses;

(2) maintaining, amending, or abolishing the current system for determining pretrial release or detention; and

(3) guidelines for legislation to improve the processing of cases in the Court of General Sessions, community safety, and court appearance outcomes.

(D) The purpose of the report is to enable the General Assembly to consider the Pretrial Reform Commission's findings and determine whether state laws should be amended.

(E) In making its recommendations, the commission must consider current case processing and correctional resources including, but not limited to, the capacities of local jails, community-based service providers, and state courts.

(F) The Pretrial Reform Commission must deliver its report and recommendations to the chairman of the Senate Judiciary Committee and the chairman of the House Judiciary Committee no later than July 1, 2024, and the commission shall terminate when the report is made.

(G) The Supreme Court shall provide appropriate staff for the commission. The chairman of the Senate Judiciary Committee may provide additional staff for the Senate members, and the chairman of the House Judiciary Committee may provide additional staff for the House members.

(H) Members of the Pretrial Reform Commission may receive per diem, subsistence, and mileage as provided by law for members of state boards, committees, and commissions.

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

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

Motion Adopted

Senator MALLOY asked unanimous consent to make a motion to give the Bill a second reading, carry over all amendments and waive the provisions of Rule 26B in order to allow amendments to be considered on third reading.

There was no objection.

Motion Adopted

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

MOTION ADOPTED

On motion of Senator PEELER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Judge John Calvin Hayes III of Rock Hill, S.C. Judge Hayes was a graduate of Winthrop Training School and the University of South

Carolina. He joined the army as a reservist and then began law school at the University of South Carolina in 1967. Judge Hayes served in the South Carolina House of Representatives from 1981-1984 and in the Senate from 1984-1991. He served on many committees including the South Carolina Coastal Council from 1980-1991. In May of 1991, he was elected as a judge to the 16th Judicial Circuit where he served until his retirement in 2017. Judge Hayes was a loving husband, devoted father and doting grandfather who will be dearly missed.

and

MOTION ADOPTED

On motion of Senator K. JOHNSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Ms. Pansy Ridgeway of Manning, S.C. Pansy was a graduate of Furman University and the former co-owner and operator of Polly & Pansy's Shoppe. She served as Mayor of Manning for twenty-six years and was the first female City Council member where she served for eight years. Pansy chaired the Santee-Lynches Council and was the first woman president of the South Carolina Municipal Association. She received the Order of the Palmetto from former Governor Richard W. Riley and was a member of First Baptist Church of Manning. Pansy was a loving sister and devoted aunt who will be dearly missed.

ADJOURNMENT

At 3:27 P.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 1:00 P.M.

* * *

SC S. Jour., 2023 Reg. Sess. 4/11/2023

EXHIBIT D

(SC Senate Journal, 2023 Sess. 4/12/2023)

SC S. Jour., 2023 Reg. Sess. 4/12/2023

South Carolina Senate Journal, 2023 Statewide Session, April 12, 2023

April 12, 2023
South Carolina Senate
125th Session, 2023

The Senate assembled at 1:00 P.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Psalm 34:2

We're told by the Psalmist: "My soul makes its boast in the Lord; let the humble hear and be glad."

Let us pray: There really is nothing "easy" about it, most blessed Lord. Striving to lead the sort of life You expect, being the kind of follower You desire, wanting to serve You in every way any of us possibly can -- it's all quite a formidable challenge. And that is why today, O God, we turn to You for encouragement and for Your blessing, asking You to enable us to be the faithful and humble servants of the people we know in our hearts that You desire us to be. May each and every Senator and staff member in this place take seriously the challenge to honor You by their words and their actions, while at the same time they bring about great and worthwhile good for the people of our State. In Your blessed name we pray, O Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Point of Quorum

At 1:04 P.M., Senator HEMBREE made the point that a quorum was not present. It was ascertained that a quorum was not present.

Call of the Senate

Senator HEMBREE moved that a Call of the Senate be made. The following Senators answered the Call:

Adams Alexander Allen Bennett Cash Climer Corbin Cromer Davis Fanning Gambrell Goldfinch Grooms Gustafson Harpootlian Hembree Hutto *Johnson, Kevin Johnson, Michael* Kimbrell Loftis Malloy Martin Massey Peeler Rankin Reichenbach Rice Sabb Senn Setzler Shealy Stephens Talley Turner Verdin Williams Young

A quorum being present, the Senate resumed.

MESSAGE FROM THE GOVERNOR

The following appointments were transmitted by the Honorable Henry Dargan McMaster:

Statewide Appointments

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence January 1, 2022, and to expire January 1, 2026

4th Congressional District:

Charles E. Dalton, 11 Harvest Court, Greenville, SC 29601-4409 /ICE Barry D. Wynn

Referred to the Committee on Judiciary.

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence January 1, 2023, and to expire January 1, 2027

Berkeley County:

John Samuel West, 202 McCants Drive, Moncks Corner, SC 29461-1869 *VICE* Peggy H. Pinnell

Referred to the Committee on Judiciary.

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence January 1, 2023, and to expire January 1, 2027

7th Congressional District:

Hugh L. Wilcox, Jr., 500 East Howe Springs Street, Florence, SC 29505 *VICE* Merrell W. Floyd

Referred to the Committee on Judiciary.

Local Appointments

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Mary Frances Cole, 127 Royal Drive, Williamston, SC 29697-2046

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Nancy W. Devine, 121 Wilson Road, Williamston, SC 29697-9723

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Linda C. Dudley-Graham, Post Office Box 863, Iva, SC 29655-0863

Initial Appointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Ronald Gambrell, 205 Ashley Downs, Anderson, SC 29621-2408 *VICE* Denise Malone

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

J. Darrell Green, Jr., 103 Lusk Street, Honea Path, SC 29654-1317

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Matthew Lollis, 111 Cliftons Landing Drive, Anderson, SC 29625-6243

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Sherry Mattison, 309 Oakwood Estates Drive, Anderson, SC 29621-2471

Initial Appointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Jeremy Pickens, 262 Public Well Rd., Anderson, SC 29626-5859 *VICE* Ronald W. Whitman

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

William Dan Sharp, 2402 East North Avenue, Anderson, SC 29625-2903

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Samuel Thompson Tucker III, 230 Grace Lane, Piedmont, SC 29673-7710

Reappointment, Anderson County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

James Wesley White, 152 Buckland Drive, Anderson, SC 29621-3686

REGULATION WITHDRAWN

The following was received:

Document No. 5148

Agency: Department of Employment and Workforce

Chapter: 47

Statutory Authority: 1976 [Code Sections 41-29-110](#) and [41-29-230](#)

SUBJECT: Public Employment Office

Received by President of the Senate January 10, 2023

Referred to Committee on Labor, Commerce and Industry

Legislative Review Expiration: Permanently Withdrawn

Permanently Withdrawn April 11, 2023

Leave of Absence

On motion of Senator STEPHENS, at 3:42 P.M., Senator KIMPSON was granted a leave of absence for today.

Leave of Absence

On motion of Senator STEPHENS, at 3:42 P.M., Senator SABB was granted a leave of absence for the balance of the day.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 95 (Word version) Sen. Loftis

S. 704 (Word version) Sen. Gustafson and roll of the Senate

RECALLED, AMENDED

READ THE SECOND TIME

S. 593 (Word version) -- Senator Hutto: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-440, RELATING TO DESIGNATION OF VOTING PRECINCTS IN ORANGEBURG COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

Senator HUTTO asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

The Bill was recalled from the Committee on Judiciary.

Senator HUTTO asked unanimous consent to make a motion to take the Bill up for immediate consideration.

There was no objection.

The Senate proceeded to the consideration of the Bill.

Senator HUTTO proposed the following amendment (LC-593.HDB0001S), which was adopted:

Amend the bill, as and if amended, SECTION 1, by striking Section 7-7-440(B) and inserting:

(B) The precinct lines defining the precincts in subsection (A) are as shown on official maps on file with the Revenue and Fiscal Affairs Office and as shown on copies provided to the State Election Commission and the Board of Voter Registration and Elections of Orangeburg County by the office and designated as ~~P-75-05~~ P-75-23A.

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill, as amended, was read the second time, passed and ordered to a third reading.

RECALLED

H. 4099 (Word version) -- Reps. B. Newton, Neese, Mitchell and Yow: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-350, RELATING TO DESIGNATION OF VOTING PRECINCTS IN LANCASTER COUNTY, SO AS TO ADD ONE PRECINCT AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

Senator M. JOHNSON asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

The Bill was recalled from the Committee on Judiciary and ordered placed on the Calendar for consideration tomorrow.

RECALLED AND COMMITTED

H. 4116 (Word version) -- Reps. Sandifer, M.M. Smith and King: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 40-19-295 SO AS TO PROHIBIT THE DIVIDING OF FEES OR OTHER COMPENSATION CHARGED OR RECEIVED BY LICENSEES OF THE BOARD OF FUNERAL SERVICES WITH ANOTHER PERSON, PARTNERSHIP, CORPORATION, ASSOCIATION, OR LEGAL ENTITY FOR THE DELIVERY OR PERFORMANCE OF FUNERAL SERVICES; BY AMENDING SECTION 32-7-100, RELATING TO PENALTIES FOR VIOLATIONS OF PROVISIONS REGULATING PRENEED FUNERAL CONTRACTS, SO AS TO INCREASE FINE RANGES AND PERMANENTLY BAR PERSONS CONVICTED OF A FELONY FROM CONDUCTING PRENEED CONTRACT SALES; BY AMENDING SECTION 32-7-110, RELATING TO THE INVESTIGATION OF COMPLAINTS AGAINST UNLICENSED PRENEED CONTRACT SALES PROVIDERS, SO AS TO PROVIDE COMPLAINTS TO WHICH THE DEPARTMENT SHALL RESPOND MAY BE WRITTEN OR ORAL; BY AMENDING SECTION 32-8-360, RELATING TO PENALTIES FOR VIOLATIONS OF THE SAFE CREMATION ACT, SO AS TO INCREASE MONETARY FINES AND REQUIRE IMMEDIATE REPORTING OF VIOLATIONS TO THE BOARD; BY AMENDING

SECTION 32-8-385, RELATING TO REQUIREMENTS THAT CREMATORIES EMPLOY CERTAIN TRAINED STAFF TO PERFORM CREMATIONS, SO AS TO REQUIRE ALL CREMATIONS BE PERFORMED BY THESE TRAINED STAFF MEMBERS; BY AMENDING SECTION 40-19-20, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF EMBALMERS AND FUNERAL DIRECTORS, SO AS TO REVISE CERTAIN DEFINITIONS; BY AMENDING SECTION 40-19-30, RELATING TO THE REQUIREMENT OF LICENSURE TO PRACTICE FUNERAL SERVICES, SO AS TO PROVIDE CONDUCT CONSTITUTING THE PRACTICE OF FUNERAL SERVICES INCLUDES PARTIES WHO EXERCISE ANY CONTROL OR AUTHORITY OVER A FUNERAL ESTABLISHMENT OR ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES, AND TO PROHIBIT CORPORATIONS, PARTNERSHIPS, OR INDIVIDUALS IN WHOSE NAME APPEARS THE NAME OF A PERSON WITH A REVOKED OR LAPSED LICENSE FROM HAVING A LICENSE TO OPERATE A FUNERAL HOME; BY AMENDING SECTION 40-19-70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO PROVIDE BOARD MEMBERS, COMMITTEES, OR EMPLOYEES MAY NOT BE LIABLE FOR ACTS PERFORMED IN THE COURSE OF THEIR OFFICIAL DUTIES IN THE ABSENCE OF MALICE SHOWN AND PROVEN IN A COURT OF COMPETENT JURISDICTION; BY AMENDING SECTION 40-19-80, RELATING TO INSPECTORS EMPLOYED BY THE BOARD, SO AS TO INSTEAD REQUIRE THE BOARD TO EMPLOY AT LEAST TWO INVESTIGATORS WHO MAY BE LICENSED EMBALMERS AND FUNERAL DIRECTORS WITH CERTAIN EXPERIENCE BUT WHO HAVE NOT BEEN DISCIPLINED; BY AMENDING SECTION 40-19-110, RELATING TO CONDUCT CONSTITUTING UNPROFESSIONAL CONDUCT BY A LICENSEE OF THE BOARD, SO AS TO MAKE GRAMMATICAL CHANGES; BY AMENDING SECTION 40-19-115, RELATING TO JURISDICTION OF THE BOARD, SO AS TO INCLUDE UNLICENSED PERSONS WITH THIS JURISDICTION; BY AMENDING SECTION 40-19-200, RELATING TO PENALTIES FOR VIOLATIONS OF PROVISIONS PROHIBITING THE PRACTICE OF FUNERAL SERVICES WITHOUT A LICENSE OR USING FALSE INFORMATION TO OBTAIN SUCH LICENSURE, SO AS TO INCREASE MONETARY FINES, AND TO SUBJECT PERSONS WHO AID AND ABET UNLICENSED PERSONS OR ENTITIES IN ENGAGING IN THE PRACTICE OF FUNERAL SERVICE WITHOUT LICENSURE TO THESE PENALTIES; BY AMENDING SECTION 40-19-250, RELATING TO CONTINUING EDUCATION PROGRAMS, SO AS TO REQUIRE CERTAIN COURSEWORK IN ETHICS, TO REQUIRE FOUR HOURS OF TOTAL ANNUAL COURSEWORK, TO REQUIRE A CERTAIN PORTION OF THIS COURSEWORK TO BE IN ETHICS, AND TO REQUIRE A CERTAIN PORTION OF THIS COURSEWORK BE COMPLETED IN PERSON; AND BY AMENDING SECTION 40-19-290, RELATING TO THE FIDUCIARY RESPONSIBILITIES OF FUNERAL ESTABLISHMENTS WITH RESPECT TO PAYMENTS RECEIVED FOR FUNERAL MERCHANDISE BEING PURCHASED, SO AS TO PROVIDE THESE PAYMENTS MUST BE KEPT IN A TRUST ACCOUNT UNTIL THE MERCHANDISE IS DELIVERED FOR ITS INTENDED USE OR IS DELIVERED INTO THE PHYSICAL POSSESSION OF THE PURCHASER.

On motion of Senator DAVIS, with unanimous consent, the Bill was recalled from the Committee on Judiciary and committed to the Committee on Labor, Commerce and Industry.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 718 (Word version) -- Senator Setzler: A SENATE RESOLUTION TO CONGRATULATE MR. CHARLIE ROUNTREE III FOR BEING INDUCTED INTO THE GOLF HALL OF FAME.

sr-0360km-vc23.docx : 9f2dd90a-549c-4ce1-bc33-5279805bb208

The Senate Resolution was adopted.

S. 719 (Word version) -- Senator McElveen: A CONCURRENT RESOLUTION TO CONGRATULATE THE FEATHERHORN YOUNG GUNS SHOOTING TEAM OF FEATHERHORN FARMS ON AN OUTSTANDING SEASON AND TO HONOR THEM FOR WINNING THE 2023 GOVERNOR'S CUP.

lc-0204hdb-rm23.docx : 606d66a3-d048-4a2e-9eed-f1ccca9cf330

The Concurrent Resolution was adopted, ordered sent to the House.

S. 720 (Word version) -- Senator Alexander: A SENATE RESOLUTION TO CONGRATULATE THE CITY OF SENECA UPON THE OCCASION OF ITS ONE HUNDRED FIFTIETH ANNIVERSARY.

sr-0318km-hw23.docx : d341b3bc-0758-4447-91fd-6d64573fc31a

The Senate Resolution was adopted.

S. 721 (Word version) -- Senator Alexander: A SENATE RESOLUTION TO RECOGNIZE THE IMPORTANCE OF SMALL BUSINESSES TO THE SOUTH CAROLINA ECONOMY, TO CELEBRATE SMALL BUSINESS OWNERS ACROSS THE PALMETTO STATE, AND TO DECLARE WEDNESDAY, MAY 3, 2023, AS "SMALL BUSINESS DAY" IN SOUTH CAROLINA.

sr-0324km-vc23.docx : d7f2d83f-6d37-416b-8a08-4ecb57cd9d74

The Senate Resolution was adopted.

S. 722 (Word version) -- Senator Setzler: A SENATE RESOLUTION TO EXPRESS PROFOUND SORROW UPON THE PASSING OF DEACON DAVID MYERS, JR. AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

sr-0368km-vc23.docx : cb14c402-d73e-495b-99e6-a35e38f9f10c

The Senate Resolution was adopted.

S. 723 (Word version) -- Senator Talley: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 27-40-20, RELATING TO THE PURPOSES AND RULES OF CONSTRUCTION FOR THE RESIDENTIAL LANDLORD AND TENANT ACT, SO AS TO EXEMPT CERTAIN TENANCIES FROM THE ACT; AND BY AMENDING SECTION 45-2-60, RELATING TO THE EJECTMENT OF A PERSON FROM A LODGING ESTABLISHMENT, SO AS TO AUTHORIZE AN INNKEEPER TO REQUEST ASSISTANCE FROM LAW ENFORCEMENT TO EJECT A PERSON AND TO PROVIDE THAT A PERSON EJECTED FROM A CAMPGROUND HAS TEN DAYS TO MAKE A CLAIM FOR PROPERTY LEFT AT THE TIME OF EJECTMENT.

sj-0033pb23.docx : dd4ace69-72c7-4bb2-a571-b082447447e5

Read the first time and referred to the Committee on Judiciary.

S. 724 (Word version) -- Senator Cromer: A CONCURRENT RESOLUTION TO CONGRATULATE THE NEWBERRY COLLEGE FOOTBALL TEAM, COACHES, AND SCHOOL OFFICIALS ON AN OUTSTANDING SEASON AND TO HONOR THEM FOR WINNING THE SOUTH ATLANTIC CONFERENCE CHAMPIONSHIP.

sr-0369km-hw23.docx : eae985eb-cd5b-4cda-8c8d-04e2a86fe455

The Concurrent Resolution was adopted, ordered sent to the House.

S. 725 (Word version) -- Senator Cromer: A CONCURRENT RESOLUTION TO CONGRATULATE THE NEWBERRY COLLEGE MEN'S GOLF TEAM FOR EARNING THE TOP TEAM GRADE POINT AVERAGE IN THE COUNTRY.

sr-0370km-hw23.docx : 6869d83e-043e-4161-b306-c2b3a37932bd

The Concurrent Resolution was adopted, ordered sent to the House.

REPORTS OF STANDING COMMITTEES

Senator HEMBREE from the Committee on Education submitted a favorable with amendment report on:

S. 244 (Word version) -- Senator Kimbrell: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-19-40, RELATING TO CERTAIN SPECIAL PROVISIONS FOR THE ELECTION OR APPOINTMENT OF SCHOOL TRUSTEES, SO AS TO PROVIDE THAT ELECTIONS FOR SCHOOL TRUSTEES MUST BE HELD AT THE SAME TIME AS THE GENERAL ELECTION IN EVEN-NUMBERED YEARS.

Ordered for consideration tomorrow.

Senator HEMBREE from the Committee on Education submitted a favorable with amendment report on:

S. 305 (Word version) -- Senators Young, M. Johnson, Kimbrell, Turner, Fanning and Climer: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-25-60 SO AS TO PROVIDE THAT AN INDIVIDUAL'S PRIOR WORK EXPERIENCE MAY BE AWARDED ON AN INITIAL TEACHING CERTIFICATE IF THE PRIOR EXPERIENCE IS IN OR RELATED TO THE CONTENT FIELD OF THE CERTIFICATE, AND TO PROVIDE THAT EXISTING CERTIFICATE HOLDERS MAY ALSO RECEIVE THE SAME CREDIT FOR PRIOR WORK EXPERIENCE.

Ordered for consideration tomorrow.

Senator HEMBREE from the Committee on Education submitted a favorable with amendment report on:

H. 3797 (Word version) -- Reps. B.J. Cox, G.M. Smith, Beach, W. Newton, Williams, McCravy, Long, Hixon, Taylor, Oremus, Blackwell, Erickson and Bradley: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "MILITARY TEMPORARY REMOTE SCHOOL ENROLLMENT ACT" BY ADDING SECTION 59-63-33 SO AS TO PROVIDE PUBLIC SCHOOL PUPILS COMPLY WITH SCHOOL ENROLLMENT REQUIREMENTS IF THEIR PARENTS ARE TRANSFERRED TO OR ARE PENDING TRANSFER TO MILITARY INSTALLATIONS IN THIS STATE WHILE ON ACTIVE MILITARY DUTY PURSUANT TO OFFICIAL MILITARY ORDERS, TO PROVIDE SCHOOL DISTRICTS SHALL ACCEPT APPLICATIONS FOR ENROLLMENT AND COURSE REGISTRATION FROM SUCH PUPILS BY ELECTRONIC MEANS, TO PROVIDE PARENTS OF SUCH STUDENTS SHALL PROVIDE CERTAIN PROOF OF RESIDENCE WITHIN TEN DAYS AFTER THE ARRIVAL DATE, TO PROVIDE THE PROVISIONS OF THIS ACT APPLY NOTWITHSTANDING ANOTHER PROVISION OF LAW, TO PROVIDE AMBIGUITIES IN CONSTRUING THE PROVISIONS OF THIS ACT MUST BE RESOLVED IN FAVOR OF ENROLLMENT, AND TO DEFINE NECESSARY TERMINOLOGY.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Finance submitted a favorable with amendment report on:

H. 4300 (Word version) -- Ways and Means Committee: A BILL TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2023, TO REGULATE THE EXPENDITURE OF SUCH FUNDS, AND TO FURTHER PROVIDE FOR THE OPERATION OF STATE GOVERNMENT DURING THIS FISCAL YEAR AND FOR OTHER PURPOSES.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Finance submitted a favorable with amendment report on:

H. 4301 (Word version) -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2022-2023, AND TO ALLOW UNEXPENDED FUNDS APPROPRIATED TO BE CARRIED FORWARD TO SUCCEEDING FISCAL YEARS AND EXPENDED FOR THE SAME PURPOSES.

Ordered for consideration tomorrow.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

SECOND READING BILLS

H. 4215 (Word version) -- Rep. Hyde: A BILL TO AMEND ACT 106 OF 2015, RELATING TO THE ELECTION DISTRICTS FROM WHICH MEMBERS OF THE SPARTANBURG COUNTY SCHOOL DISTRICT 5 BOARD OF TRUSTEES MUST BE ELECTED, SO AS TO REAPPORTION THESE ELECTION DISTRICTS, TO REDESIGNATE THE MAP NUMBER ON WHICH THESE DISTRICTS ARE DELINEATED AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO PROVIDE DEMOGRAPHIC INFORMATION REGARDING THESE REVISED ELECTION DISTRICTS.

On motion of Senator TALLEY.

H. 4215--Ordered to a Third Reading

On motion of Senator TALLEY, H. 4215 was ordered to receive a third reading on Thursday, April 13, 2023.

H. 4216 (Word version) -- Rep. Hyde: A BILL TO AMEND ACT 107 OF 2015, RELATING TO THE ELECTION DISTRICTS FROM WHICH MEMBERS OF THE SPARTANBURG COUNTY SCHOOL DISTRICT 7 BOARD OF TRUSTEES MUST BE ELECTED, SO AS TO REAPPORTION THESE ELECTION DISTRICTS, TO REDESIGNATE THE MAP NUMBER ON WHICH THESE DISTRICTS ARE DELINEATED AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO PROVIDE DEMOGRAPHIC INFORMATION REGARDING THESE REVISED ELECTION DISTRICTS.

On motion of Senator TALLEY.

H. 4216--Ordered to a Third Reading

On motion of Senator TALLEY, H. 4216 was ordered to receive a third reading on Thursday, April 13, 2023.

CARRIED OVER

H. 3605 (Word version) -- Reps. G.M. Smith, Sandifer, Carter, Kirby, Oremus, Magnuson, Pace, Long, Elliott, Burns, May, Beach, Forrest, Blackwell, B. Newton, Caskey and Ligon: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-1-80, RELATING TO INVESTIGATIONS OF LICENSEES, SO AS TO REQUIRE THE DIRECTOR TO SEND INFORMATION REGARDING AN INVESTIGATION TO THE LICENSEE; BY ADDING SECTION 40-1-85 SO AS TO ESTABLISH INFORMAL CONFERENCES; BY AMENDING SECTION 40-1-90, RELATING TO DISCIPLINARY ACTION PROCEEDINGS, SO AS TO ALLOW A LICENSEE TO REQUEST CERTIFICATION OF AN INVESTIGATION FROM THE DIRECTOR; AND BY AMENDING SECTION 40-1-140, RELATING TO EFFECT OF PRIOR CRIMINAL CONVICTIONS OF APPLICANTS, SO AS TO PROHIBIT THE DENIAL OF A LICENSE BASED SOLELY OR IN PART ON A PRIOR CRIMINAL CONVICTION IN CERTAIN CIRCUMSTANCES.

On motion of Senator MALLOY, the Bill was carried over.

CARRIED OVER

S. 640 (Word version) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO WATER CLASSIFICATIONS AND STANDARDS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5119, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator CLIMER, the Resolution was carried over.

CARRIED OVER

S. 641 (Word version) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION - BOARD OF VETERINARY MEDICAL EXAMINERS, RELATING TO DEFINITIONS; PRACTICE STANDARDS FOR LICENSED VETERINARY TECHNICIANS AND UNLICENSED VETERINARY AIDES; LICENSURE AND EXAMINATIONS FOR VETERINARIANS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5121, PURSUANT TO THE PROVISIONS OF ARTICLE I, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator CLIMER, the Resolution was carried over.

COMMITTEE AMENDMENT ADOPTED

CARRIED OVER

S. 95 (Word version) -- Senators Campsen, Senn, Verdin, M. Johnson, Kimbrell, Gustafson, Young, Grooms, Fanning and Loftis: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO DELETE THE COMPTROLLER GENERAL FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE COMPTROLLER GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE COMPTROLLER GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION.

The Senate proceeded to the consideration of the Bill.

The Committee on Judiciary proposed the following amendment (SJ-95.PB0012S), which was adopted:

Amend the joint resolution, as and if amended, by striking SECTION 1 and inserting:

SECTION X.A. It is proposed that Section 7, Article VI of the Constitution of this State be amended to read:

Section 7. There shall be elected by the qualified voters of the State a Secretary of State, an Attorney General, a Treasurer, a Superintendent of Education, Comptroller General, Commissioner of Agriculture, and an Adjutant General who shall hold their respective offices for a term of four years, coterminous with that of the Governor. The duties and compensation of such offices shall be prescribed by law and their compensation shall be neither increased nor diminished during the period for which they shall have been elected.

Beginning upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Adjutant General must be appointed by the Governor, upon the advice and consent of the Senate. The appointed Adjutant General shall serve for a term not coterminous with the Governor and may be removed only for cause. The General Assembly shall provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office.

Beginning upon the expiration of the term of the Comptroller General serving in office on the date of the ratification of the provisions of this paragraph, the Comptroller General must be appointed by the Governor, upon the advice and consent of the Senate. The General Assembly shall provide by law for the term, duties, compensation, and qualifications for the office, the procedures by which the appointment is made, and the procedures by which the Comptroller General may be removed from office.

B. It is proposed that Section 12, Article IV of the Constitution of this State be amended to read:

Section 12. (1) Whenever the Governor transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as acting Governor.

(2) Whenever a majority of the Attorney General, the Secretary of State, ~~the Comptroller General,~~ and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall forthwith assume the powers and duties of the office as acting Governor.

Thereafter, if the Governor transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that no such inability exists, he shall forthwith resume the powers and duties of his office unless a majority of the above members or of such other body, whichever the case may be, transmits within four days to the President of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon, the General Assembly shall forthwith consider and decide the issue, and if not in session, it shall assemble within forty-eight hours for the sole purpose of deciding such issue. If the General Assembly, within twenty-one days, excluding Sundays, after the first day it meets to decide the issue, determines by two-thirds vote of each House that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.

C. It is proposed that Section 13, Article X of the Constitution of this State be amended to read:

Section 13. (1) Subject to the conditions and limitations in this section, the State shall have power to incur indebtedness in the following categories and in no others: (a) general obligation debt; and (b) indebtedness payable only from a revenue-producing project or from a special source as provided in subsection (9) hereof.

(2) "General obligation debt" shall mean any indebtedness of the State which shall be secured in whole or in part by a pledge of the full faith, credit and taxing power of the State.

(3) General obligation debt may not be incurred except for a public purpose and all general obligation debt shall mature not later than thirty years from the time such indebtedness shall be incurred.

(4) In each act authorizing the incurring of general obligation debt the General Assembly shall allocate on an annual basis sufficient tax revenues to provide for the punctual payment of the principal of and interest on such general obligation debt. If at any time any payment due as the principal of or interest on any general obligation debt shall not be paid as and when the same become due and payable, the ~~State Comptroller General~~ Governor shall forthwith levy and the State Treasurer shall collect an ad valorem tax without limit as to rate or amount upon all taxable property in the State sufficient to meet the payment of the principal and interest of such general obligation debt then due.

(5) If general obligation debt be authorized by (a) two-thirds of the members of each House of the General Assembly; or (b) by a majority vote of the qualified electors of the State voting in a referendum called by the General Assembly there shall be no conditions or restrictions limiting the incurring of such indebtedness except (i) those restrictions and limitations imposed in the authorization to incur such indebtedness, and (ii) the provisions of subsection (3) hereof.

(6) General obligation debt may be also incurred on such terms and conditions as the General Assembly may by law prescribe under the following limitations:

(a) General obligation bonds for highway purposes (highway bonds) may be issued if such bonds shall be additionally secured by a pledge of the revenues derived from the "sources of revenue" as such term is defined in this subsection; provided, that the maximum annual debt service on all highway bonds so additionally secured which shall thereafter be outstanding shall not exceed fifteen percent of the proceeds received from the sources of revenue for the fiscal year next preceding.

For the purpose of this subsection, the term "sources of revenue" shall mean so much of the revenues as may be made applicable by the General Assembly for state highway purposes from any and all taxes or licenses imposed upon individuals or vehicles for the privilege of using the public highways of the State.

(b) General obligation bonds for any state institution of higher learning designated by the General Assembly (state institution bonds) may be issued, if such bonds shall be additionally secured by a pledge of the revenues derived from the tuition fees received by the particular institution of higher learning for which such state institution bonds are issued; provided, that the maximum annual debt service on all state institution bonds so additionally secured issued for such state institution thereafter to be outstanding shall not exceed ninety percent of the sums received by such state institution of higher learning from tuition fees for the fiscal year next preceding.

(c) General obligation bonds for any public purpose including those purposes set forth in (a) and (b) may be issued; provided, that the maximum annual debt service on all general obligation bonds of the State thereafter to be outstanding (excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes) must not exceed five percent of the general revenues of the State for the fiscal year next preceding (excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds).

Upon implementation of the provisions of this item by law, the percentage rate of general revenues may be reduced to four or increased to seven percent by legislative enactment passed by a two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

During the regular session of the General Assembly in 1990 and during every fifth annual regular session thereafter, the General Assembly shall conduct and complete a review of the law implementing this item. Unless during such session that review results in an amendment to or repeal of the law implementing this item, which must be accomplished by legislative enactment passed by a two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

(7) General obligation indebtedness may be incurred in anticipation of state tax collections (tax anticipation notes) under such terms and conditions as the General Assembly may prescribe by law. Such tax anticipation notes shall be secured by a pledge of such taxes and by a pledge of the full faith, credit and taxing power of the State. All tax anticipation notes shall be expressed to mature not later than ninety days from the end of the fiscal year in which such notes are issued.

(8) General obligation notes may be issued in anticipation of the proceeds of general obligation bonds which may be lawfully issued (bond anticipation notes) under terms and conditions which the General Assembly may prescribe by law. Such bond anticipation notes shall be secured by a pledge of the proceeds of the bonds in anticipation of which such bond anticipation notes are issued and by a pledge of the full faith, credit and taxing power of the State.

Bond anticipation notes shall be expressed to mature not later than one year following the date of issuance, but if the General Assembly shall so authorize by law, bond anticipation notes may be refunded or renewed.

(9) The General Assembly may authorize the State or any of its agencies, authorities or institutions to incur indebtedness for any public purpose payable solely from a revenue-producing project or from a special source, which source does not involve revenues from any tax but may include fees paid for the use of any toll bridge, toll road or tunnel. Such indebtedness may be incurred upon such terms and conditions as the General Assembly may prescribe by law. All indebtedness incurred pursuant to the provisions of this subsection shall contain a statement on the face thereof specifying the sources from which payment is to be made.

Amend the joint resolution further, by striking the undesignated paragraph containing the question to be submitted to the voters and inserting:

"Must Section 7, Article VI of the Constitution of this State relating to state constitutional officers be amended so as to delete the Comptroller General from the list of state officers that the Constitution requires to be elected; provide that upon the expiration of the term of the Comptroller General serving in office on the date of the ratification of this provision, the Comptroller General must be appointed by the Governor, upon the advice and consent of the Senate; and require the General Assembly to provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Comptroller General may be removed from office; and must Section 12, Article IV be amended so as to delete the Comptroller General's name from the list of elected state constitutional officers a majority of which may submit a written declaration that the Governor is unable to discharge his duties; and must Section 13, Article X be amended so as to provide if the principal of or interest on any general obligation debt is not paid when due, that instead of an appointed Comptroller General, the Governor, an elected state constitutional officer, shall levy an ad valorem tax to meet the payment"

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment.

The amendment was adopted.

On motion of Senator SCOTT, the Bill was carried over.

CARRIED OVER

H. 3209 (Word version) -- Reps. Jordan, Murphy, Brewer, Williams, Henegan and Alexander: A JOINT RESOLUTION TO EXTEND CERTAIN GOVERNMENTAL APPROVALS AFFECTING ECONOMIC DEVELOPMENT WITHIN THE STATE.

On motion of Senator HUTTO, the Resolution was carried over.

POINT OF ORDER

S. 710 (Word version) -- Banking and Insurance Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF FINANCIAL INSTITUTIONS - CONSUMER FINANCE DIVISION, RELATING TO CHECK-CASHING SERVICE; PURCHASE OF GOODS OR SERVICES, DESIGNATED AS REGULATION DOCUMENT NUMBER 5141, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Point of Order

Senator MARTIN raised a Point of Order under Rule 39 that the Resolution had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

POINT OF ORDER

S. 711 (Word version) -- Banking and Insurance Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF FINANCIAL INSTITUTIONS - CONSUMER FINANCE DIVISION, RELATING TO CHECK-CASHING SERVICE, DESIGNATED AS REGULATION DOCUMENT NUMBER 5140, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Point of Order

Senator MARTIN raised a Point of Order under Rule 39 that the Resolution had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

POINT OF ORDER

H. 3514 (Word version) -- Reps. Ott, B. Newton, Murphy, Cobb-Hunter, Caskey, Kirby, Collins, Forrest, Bernstein, Wheeler, Taylor, Wetmore, J. Moore, Atkinson, Henegan, Blackwell, J.L. Johnson, Brewer, W. Newton, Herbkersman, Erickson, M.M. Smith and Leber: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 52-5-300 BY ENACTING THE "SOUTH CAROLINA EQUINE ADVANCEMENT ACT" TO ESTABLISH A GRANT PROGRAM TO ASSIST THE GROWTH AND DEVELOPMENT OF THE EQUINE INDUSTRY IN SOUTH CAROLINA; BY ADDING SECTION 52-5-310 SO AS TO PROVIDE DEFINITIONS; BY ADDING SECTION 52-5-320 SO AS TO ESTABLISH THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-330 SO AS TO ESTABLISH THE POWERS OF THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-340 SO AS TO PROVIDE ADMINISTRATIVE SUPPORT FOR THE SOUTH CAROLINA EQUINE COMMISSION; BY ADDING SECTION 52-5-350 SO AS TO PROVIDE GUIDELINES FOR PARI-MUTUEL WAGERING; BY ADDING SECTION 52-5-360 SO AS TO PROVIDE APPLICATION GUIDELINES FOR PARI-MUTUEL WAGERING; BY ADDING SECTION 52-5-370 SO AS TO PROVIDE FOR APPLICATION AND LICENSE FEES; BY ADDING SECTION 52-5-380 SO AS TO PROVIDE FOR THE EQUINE INDUSTRY DEVELOPMENT FUND; BY ADDING SECTIONS 52-5-390 AND 52-5-400 SO AS TO PROVIDE GUIDELINES AND PROTECTIONS FOR COMMITTEE MEMBERS; AND BY ADDING SECTION 52-5-410 SO AS TO REQUIRE THE COMMISSION TO SUBMIT AN ANNUAL REPORT.

Point of Order

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

ADOPTED

S. 704 (Word version) -- Senators McElveen, Gustafson, Adams, Alexander, Allen, Bennett, Matthews, Campsen, Cash, Climer, Corbin, Cromer, Davis, Fanning, Gambrell, Garrett, Goldfinch, Grooms, Harpootlian, Hembree, Hutto, Jackson, K. Johnson, M. Johnson, Kimbrell, Kimpson, Loftis, Malloy, Martin, Massey, McLeod, Peeler, Rankin, Reichenbach, Rice, Sabb, Scott, Senn, Setzler, Shealy, Stephens, Talley, Turner, Verdin, Williams and Young: A CONCURRENT RESOLUTION TO COMMEMORATE THE ONE HUNDREDTH ANNIVERSARY OF THE CLEVELAND SCHOOL FIRE AND TO RECOGNIZE MAY 17, 2023, AS "CLEVELAND SCHOOL FIRE MEMORIAL DAY" IN SOUTH CAROLINA.

The Resolution was adopted, ordered, sent to the House.

H. 4000 (Word version) -- Reps. Jefferson, Cobb-Hunter, Gatch, Robbins, Brewer, Tedder and Murphy: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 78 BEGINNING AT MILE POINT 12.79 AND ENDING AT MILE POINT 22.39 IN DORCHESTER COUNTY "LAVEL 'TYLER' NORMAN DAVIS, JR. MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY CONTAINING THESE WORDS.

The Resolution was adopted, ordered, returned to the House.

H. 4206 (Word version) -- Reps. Bailey, Alexander, Anderson, Atkinson, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B.J. Cox, B.L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon,

Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J.E. Johnson, J.L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A.M. Morgan, T.A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G.M. Smith, M.M. Smith, Stavrinakis, Taylor, Tedder, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO PROCLAIM APRIL 27, 2023, AS "BOULINEAU'S IGA HERITAGE DAY" IN SOUTH CAROLINA

The Resolution was adopted, ordered, returned to the House.

H. 4237 (Word version) -- Reps. Felder, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoun, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B.J. Cox, B.L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J.E. Johnson, J.L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A.M. Morgan, T.A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G.M. Smith, M.M. Smith, Stavrinakis, Taylor, Tedder, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO DECLARE AUGUST 8, 2023, "CLOG DANCING DAY" IN THE PALMETTO STATE.

The Resolution was adopted, ordered, returned to the House.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN
COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

MOTION ADOPTED

At 1:33 P.M., on motion of Senator MASSEY, the Senate agreed to dispense with the balance of the Motion Period.

**THE SENATE PROCEEDED TO A CONSIDERATION OF
BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

CARRIED OVER

S. 604 (Word version) -- Senators Peeler, Alexander, Setzler, Malloy and Scott: A JOINT RESOLUTION TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE AMERICAN RESCUE PLAN ACT OF 2021, AND TO SPECIFY THE MANNER IN WHICH THE FUNDS MAY BE EXPENDED.

On motion of Senator PEELER, the Resolution was carried over.

THE SENATE PROCEEDED TO THE SPECIAL ORDERS.

AMENDED, READ THE THIRD TIME

RETURNED TO THE HOUSE

H. 3532 (Word version) -- Reps. G.M. Smith, Pope, McCravy, B. Newton, West, Chapman, Burns, Wooten, Haddon, O'Neal, Carter, W. Newton, M.M. Smith, Davis, Pace, B.L. Cox, Gilliam, Thayer, Bailey, Hardee, Blackwell, Leber, Mitchell, Chumley, Ligon, Hiott, Yow, Landing, Hixon, Taylor, Oremus, Cromer and J.E. Johnson: 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.

The Senate proceeded to a consideration of the Bill, the question being the third reading of the Bill.

Amendment No. 4

Senator MALLOY proposed the following amendment (SJ-3532.BM0047S), which was withdrawn:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 17-15-500. (A) There is established the South Carolina Pretrial Reform Commission composed of fifteen members as follows:

- (1) three members to be appointed by the chairman of the Senate Judiciary Committee;
- (2) three members to be appointed by the chairman of the House of Representatives Judiciary Committee;
- (3) three members of the judiciary to be appointed by the Chief Justice of the South Carolina Supreme Court;
- (4) three members of the executive branch to be appointed by the Governor; and
- (5) three members of the directly impacted community, including one crime survivor, one person that has been through the pretrial system, and a community member at large to be jointly appointed by the chairmen of both the House and Senate Judiciary Committees.

(B) The members of the commission may begin meeting when at least a quorum has been appointed and shall elect one member to serve as chairman. A quorum shall consist of at least eight members.

(C) The primary duty of the South Carolina Pretrial Reform Commission is to prepare a comprehensive report that reviews and recommends:

- (1) appropriate changes to the current pretrial system for all criminal offenses;
- (2) maintaining, amending, or abolishing the current system for determining pretrial release or detention; and
- (3) guidelines for legislation to improve the processing of cases in the Court of General Sessions, community safety, and court appearance outcomes.

(D) The purpose of the report is to enable the General Assembly to consider the Pretrial Reform Commission's findings and determine whether state laws should be amended.

(E) In making its recommendations, the commission must consider current case processing and correctional resources including, but not limited to, the capacities of local jails, community-based service providers, and state courts.

(F) The Pretrial Reform Commission must deliver its report and recommendations to the chairman of the Senate Judiciary Committee and the chairman of the House Judiciary Committee no later than July 1, 2024, and the commission shall terminate when the report is made.

(G) The Supreme Court shall provide appropriate staff for the commission. The chairman of the Senate Judiciary Committee may provide additional staff for the Senate members, and the chairman of the House Judiciary Committee may provide additional staff for the House members.

(H) Members of the Pretrial Reform Commission may receive per diem, subsistence, and mileage as provided by law for members of state boards, committees, and commissions.

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

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

Motion Adopted

On motion of Senator MALLOY, with unanimous consent, the amendment was withdrawn.

Amendment No. 5

Senators HEMBREE and MALLOY proposed the following amendment (SEDU-3532.DB0061S), which was adopted:

Amend the bill, as and if amended, by deleting SECTION 1.

Amend the bill further, SECTION 2, by striking Section 17-15-15(D) and inserting:

(D) The provisions of this section do not apply if the defendant is charged with a violent offense, as defined by Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release. 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 whether the bond is posted by the defendant or with a bondsman. After the defendant fulfills the conditions of the bond, the clerk shall return the cash bond amount paid to the defendant. However, in the event the defendant is required by the court to make restitution to the victim of his crime, the cash bond may be used for the purpose of such restitution.

Any currency cash 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. Additionally, the court may impose any other conditions allowed under Chapter 15 of Title 17 and other law.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. **Section 17-15-30 of the S.C. Code** is amended to read:

Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

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

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

(1) a person's criminal record;

(2) any current charges pending against a person and any prior charges 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 a person is currently out on bond for another offense.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency ~~shall~~ must provide the court with the following information:

(a) a person's criminal record;

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

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

(d) any other information that will assist the court in determining conditions of release to include but not limited to notification of any existing bonds for another offense.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

Amend the bill further, SECTION 4, by striking Section 17-15-55(C), (D), and (E) and inserting:

(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~~ original offense must be revoked by operation of law and a hearing for the subsequent violent offense or any felony offense involving a firearm must be held in the circuit court within thirty days;

(2) during the bond hearing for the subsequent violent offense or felony offense involving a firearm, the court must issue findings of fact and conclusions of law addressing the revocation of bond for the original offense, whether a new bond is issued for the previous offense as well as if bond is appropriate for the subsequent violent offense or felony offense involving a firearm.

(3) ~~1~~ 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, notwithstanding if posted by the person, his representative, or by a bond surety;

(4) ~~4~~ 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; and

~~(D)~~ (5) ~~1~~ if a person commits a violent offense~~crime~~, as defined in Section 16-1-60, or 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 offense~~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 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.

(E) Notwithstanding subsection (C)(2), if the original bond was set in another judicial circuit, that prosecution agency shall be notified of the revocation and any finding the court makes pursuant to this subsection. The prosecution agency having jurisdiction over the subsequent charge must make the notification required in this subsection within 48 hours of the conclusion of the preceding. The presiding judge has jurisdiction to make a finding on record to deny a new bond on the original charge or may order a new bond hearing to be scheduled on the original charge in the judicial circuit where the charges are pending. This hearing must be scheduled within 30 days by the prosecution agency having jurisdiction over the original charges.

~~(E)~~ (F) 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.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 22-5-510 of the S.C. Code is amended to read:

Section 22-5-510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. "Violent offenses" as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged

is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

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

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(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 a 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 to include but not limited to notification of any existing bonds for another offense.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter

25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

SECTION X. Section 24-13-40 of the S.C. Code is amended to read:

Section 24-13-40. The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; ~~or~~ (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

Renumber sections to conform.

Amend title to conform.

Senator HEMBREE explained the amendment.

The amendment was adopted.

Motion Adopted

On motion of Senator MALLOY, with unanimous consent, Amendment No. 6 was withdrawn.

Motion Adopted

Senator MALLOY asked unanimous consent to proceed to Amendment No. 12.

Amendment No. 12

Senators MALLOY, HUTTO, ADAMS and HARPOOTLIAN proposed the following amendment (SJ-3532.BM0067S), which was adopted:

Amend the bill, as and if amended, by adding appropriately numbered SECTIONS to read:

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

Section 17-15-35. (A) As used in this section:

(1) "approved active electronic monitoring device" and "monitoring device" means a body worn or non-body worn device or mobile phone application approved by the South Carolina Law Enforcement Division which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person's location and activities, that must verify live biometric, photographic, or videographic identification information, and that timely records and reports the person's location.

(2) "approved electronic monitoring agency" means a law enforcement agency, licensed bondsman or bonding company, or electronic monitoring company that is certified by the South Carolina Law Enforcement Division to supply, maintain, and

monitor electronic monitoring devices to participants ordered by the court to wear electronic monitoring devices under the provisions of this section;

(3) "SLED" means the South Carolina Law Enforcement Division;

(4) "monitoring agency" or "agency" means an approved electronic monitoring agency;

(5) "participant" means a person, ordered by the court or as a condition of bond to wear or possess an approved electronic monitoring device.

(B)(1) The court, in its discretion, may, for a person charged with a violation of criminal offense under the jurisdiction of the court of General Sessions or any offense where the court finds sufficient evidence of a concern for the victim's safety or the safety of any member of the public, order that the person be placed on surveillance via an approved active electronic monitoring device which must be worn or possessed at all times for the duration specified by the court, either in lieu of setting or requiring the posting of bond or as an additional condition of the release on bond.

(2) For pre-trial bond consideration, the judge is not limited to non-violent offenses, but must take into consideration all concerns relating to the setting of an appropriate bond under [Section 22-5-510](#), [Sections 17-15-10 et seq.](#), and [Section 16-25-120](#). The device must be capable of recording the person's location at all times. If the court orders a device, before the participant is allowed to leave custody, the detention facility where the defendant is located, in coordination with the approved monitoring agency, must ensure the participant is fitted with an approved active electronic monitoring device, and that all appropriate bond paperwork, including the agreement with the bonding and electronic monitoring companies acknowledging the terms and restrictions of the bond, is completed.

(3) (a) The participant who is ordered on supervision must wear an approved device at all times to verify his compliance with the conditions of his detention or if the device is not body worn, must maintain possession of his approved device on or near his person at all times for the duration of the detention and must verify his identity and location at any time required by the order of the court and must maintain the monitoring device on or near his person at all times for the duration of the detention, subject to the order of the court and reasonable orders of an agent or employee of the monitoring agency in order to effectuate the conditions of the monitoring order. For purposes of this subsection, "near" means within hearing distance of the device's notification or call alerts but not farther than thirty feet. In areas of the State where cellular coverage requires the use of an alternate device, the approved electronic monitoring company may use an alternate approved device with approval of the court;

(b) must charge and maintain the monitoring device in working order and must report any damage, destruction, or noticeable malfunction of the active monitoring device, whether the incident was accidental or intentional, and including the device having a dead battery, to at least one of the following parties within two hours of the incident: the monitoring agency, the appropriate law enforcement agency with jurisdiction over the underlying offense, or any other party specified in the order;

(c) must abide by other terms and conditions set forth by the approved electronic monitoring agency with regard to the monitoring device and electronic monitoring program;

(d) must turn himself in to custody of the appropriate detention facility upon the order of the monitoring agency, or the appropriate law enforcement agency with jurisdiction over the offense;

(e) must pay for the cost of the approved active electronic monitoring device and the operation of the monitoring device for the duration of the time the person is required to be electronically monitored, subject to an order of indigency by the court. The summary court or circuit court has jurisdiction upon motion of the defendant to consider exempting 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 who is deemed indigent. If the indigency hearing is held at a time and date separate from the initial bond hearing, the defense must notify the prosecutor, the bondsman, and the monitoring agency of the date, time, and location of the hearing subject to the notice requirements of the court.

The payment of the cost must be a condition of supervision of the person and a delinquency of two weeks or more in making payments may operate as a violation of a term or condition of the electronic monitoring and bond. No person shall be denied the privilege of electronic monitoring under this statute based on inability to pay upon a finding by the court that the defendant meets the qualifications for indigency. The State shall allocate funds to be housed in an indigency fund under the control of the Department of Public Safety to be distributed to the monitoring companies as appropriate to cover the cost of indigent participants.

(C) A participant ordered by the court to be monitored under the provisions of this section, who fails to comply with any of the provisions of this section or who fails to comply with any additional condition of the court order including location restrictions, may have his bond revoked or may be punished for contempt at the discretion of the court.

(D) It is unlawful for any person, knowingly and without authority, to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent an active electronic monitoring device, or to aid or assist a person ordered by the court to be electronically monitored under the provisions of this section to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent a monitoring device, and upon conviction, the person must be punished under the provisions of Section 24-13-425. This subsection does not apply to a person or agent of the electronic monitoring agency or bonding company, or a member of law enforcement acting under the authority of and with compliance to the court order.

(E)(1) Upon violation of any of these requirements and a showing by affidavit and supporting records by the electronic monitoring company on a domestic violence bond or general sessions bond or where emergency circumstances exist on any other bond, the approved electronic monitoring company may approach a summary court judge for a bench warrant if one is not already provided for in the bond paperwork or other court order. Law enforcement shall immediately attempt to locate and incarcerate the defendant upon notice of the bench warrant. After incarceration, the prosecutor must be notified and the defendant must be brought before a summary court judge within three calendar days or before a circuit court judge within three business days, whichever has jurisdiction of the underlying charge, to determine whether the bond is to be reconsidered or bond conditions amended. The prosecution must provide the defense with any relevant evidence regarding the alleged violation within a reasonable time before the hearing and the hearing may be continued for cause.

(2) Nothing in this section shall reduce any duty of the bondsman to pick up the offending bailee and immediately incarcerate him for violation of bond conditions. Failure to do so may lead to bond estreatment for failure to enforce bond conditions by the bondsman and possible other administrative or criminal action.

(3) Nothing in this section may be used to hold the electronic monitoring agency civilly liable for any criminal acts of the defendant committed while being monitored.

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

Section 17-15-37. (A) The South Carolina Law Enforcement Division may promulgate regulations to effectuate the intent of Section 17-15-35 and this section, develop standards for the use and approval of active electronic monitoring devices, and shall certify electronic monitoring agencies, including law enforcement agencies, electronic monitoring companies, and bondsmen and bonding companies. SLED must keep a public list of those companies that are certified.

(B) The approved electronic monitoring agency must:

(1) provide active electronic monitoring devices or mobile phone applications approved by SLED that must provide verifiable identity and location information at regular and random intervals throughout the day, and that timely record and report the person's presence near or within a prohibited area or the person's departure from a specified geographic location;

(2) allow any law enforcement agency, including the prosecutor's office, to have access to real-time monitoring, if possible, and any reports requested by law enforcement or the prosecution must be provided within twenty-four hours of the request;

(3) notify the solicitor having jurisdiction over the participant and the bondsman within forty-eight hours when he becomes aware or should have become aware that the participant has violated any provision of the court's order for electronic monitoring, or the participant has been surrendered to the custody of law enforcement; and

(4) immediately notify local law enforcement and make reasonable attempts to immediately notify the victim if the participant violates any exclusion zones related to the victim.

(C) Failure of the electronic monitoring agency to maintain compliance with regulations established by SLED, the order of the court, or any applicable statute shall be reported to SELD by the solicitor for administrative action. SLED may impose a fine, or suspend or revoke the certification for any approved agency who demonstrates a failure to maintain the standards and reporting requirements set forth under the regulations and appropriate statutes.

SECTION X. **Section 24-13-425 of the S.C. Code** is amended to read:

Section 24-13-425. (A) For the purposes of this section:

(H) "Electronic monitoring device" includes any device ordered by a court or pursuant to any statute that is utilized to track the location of a person.

~~(2) "Person" includes any public or private agency or entity providing electronic monitoring services.~~

(B) It is unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purpose of monitoring a person who is:

(1) complying with the Home Detention Act as set forth in Article 15, Title 24;

(2) wearing an electronic monitoring device as a condition of bond or pretrial release;

(3) wearing an electronic monitoring device as a condition of probation, parole, or community supervision; or

(4) wearing an electronic monitoring device as required by any other provision of law.

(C) It shall be unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purposes described in subsection (B).

(D) This section does not apply to an employee or agent of the electronic monitoring company, bonding company, or law enforcement entity who removes or replaces an active electronic monitoring device in order to perform maintenance and repair on the device, who removes and replaces a non-working device, who removes the device once the person is placed into secure custody or if the underlying charges have been dismissed, or who otherwise is acting under the authority of the court order.

(E) Any person who violates the provisions of this section shall be guilty of the misdemeanor offense of tampering with the operation of an electronic monitoring device and shall be imprisoned for not more than three years, or fined up to three thousand dollars, or both.

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

The amendment was adopted.

Amendment No. 10A

Senators HARPOOTLIAN, HEMBREE and MALLOY proposed the following amendment (SEDU-3532.DB0068S), which was adopted:

Amend the bill, as and if amended, SECTION 3, by striking Section 17-15-55(A)(2) and inserting:

(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. ~~A defendant shall be advised of his right to 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.~~ Notwithstanding another provision of law, nothing prevents a solicitor or the defendant from filing a motion for a speedy trial or requesting the court to set a date certain for trial based on the facts and circumstances in the case. If either party fails to comply with the terms of an order granting a speedy trial, the Court may reconsider the terms of the defendant's bond, may consider sanctions and may grant other just and proper relief as the Court determines.

Renumber sections to conform.

Amend title to conform.

Senator HEMBREE explained the amendment.

The amendment was adopted.

Amendment No. 11

Senators HARPOOTLIAN, HEMBREE and MALLOY proposed the following amendment (SR-3532.JG0065S), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 17-15-265. (A) When the clerk of court receives an initial bond form in a criminal case or an initial filing in a civil case, the court must enter the case into an accessible case tracking system.

(B) The Judicial Department must establish and maintain an accessible case tracking system ("ACTS") that contains the information required pursuant to this section regarding the status of each case pending before the South Carolina Supreme Court, the South Carolina Court of Appeals, or any South Carolina Circuit Court until the final disposition of the case. ACTS must be prominently posted on the Judicial Department's internet website and made available to the public in a searchable format. ACTS must include for each case:

- (1) the number of days the case has been pending;
- (2) the case number and caption;
- (3) the date of initial filing for a civil case or the date of indictment, or if no indictment, the date of the issuance of the warrant, for a criminal case;
- (4) the current status of the case;

(5) a link to lower court decisions; and

(6) the date the sitting court:

(a) received the case;

(b) received the briefs, if briefed;

(c) heard oral arguments, if argued; and

(d) decided the case, if decided.

Renumber sections to conform.

Amend title to conform.

Senator HARPOOTLIAN explained the amendment.

The amendment was adopted.

Amendment No. 13

Senators HUTTO and MALLOY proposed the following amendment (SJ-3532.BM0069S), which was adopted:

Amend the bill, as and if amended, by striking SECTION 4 and inserting:

SECTION 4. This act takes effect upon approval by the Governor, however, the provisions of Sections 17-15-35 and 17-15-37 take effect six months after approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

Amendment No. 14

Senator MATTHEWS proposed the following amendment (SMIN-3532.MW0064S), which was carried over and subsequently withdrawn:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

SECTION X. 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. A person engaged in electronic monitoring of a defendant shall only provide monitoring information to a solicitor or the court of competent jurisdiction unless otherwise ordered by the court. Monitoring information can only be provided to law enforcement pursuant to a court order.

Renumber sections to conform.

Amend title to conform.

Senator MATTHEWS explained the amendment.

The amendment was carried over.

Amendment No. 15

Senator MATTHEWS proposed the following amendment (SMIN-3532.AA0072S), which was carried over and subsequently withdrawn:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 38-53-55. When a person engaged in electronic monitoring of a defendant charged with a violent offense as defined by Section 16-1-60 becomes aware that the defendant has had contact with the alleged victim of the violent offense or with the immediate family of the alleged victim of the violent offense, he must, within twenty-four hours, notify the solicitor and the court having jurisdiction over the defendant of the contact.

Renumber sections to conform.

Amend title to conform.

Senator MATTHEWS explained the amendment.

The amendment was carried over.

Amendment No. 1

Senator HEMBREE proposed the following amendment (SEDU-3532.DB0043S), which was withdrawn:

Amend the bill, as and if amended, by deleting SECTION 1.

Amend the bill further, SECTION 2, by striking Section 17-15-15(D) and inserting:

(D) The provisions of this section do not apply if the defendant is charged with a violent offense, as defined by Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release. 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 whether the bond is posted by the defendant or with a bondsman. After the defendant fulfills the conditions of the bond, the clerk shall return the cash bond amount paid to the defendant. However, in the event the defendant is required by the court to make restitution to the victim of his crime, the cash bond may be used for the purpose of such restitution.

Any currency cash 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. Additionally, the court may impose any other conditions allowed under Chapter 15 of Title 17 and other law.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 17-15-30 of the S.C. Code is amended to read:

Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

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

- (1) a person's criminal record;
- (2) any current charges pending against a person and any prior charges 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 a person is currently out on bond for another offense.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

- (a) a person's criminal record;
- (b) any charges pending against a person at the time release is requested;
- (c) all incident reports generated as a result of the offense charged; and
- (d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

Amend the bill further, SECTION 3, by striking Section 17-15-55(C), (D), and (E) and inserting:

(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~~ original offense must be ~~revoked and a hearing for the subsequent violent offense or any felony offense involving a firearm must be held in the circuit court within thirty~~ days;

(2) during the bond hearing for the subsequent violent offense or felony offense involving a firearm, the court must issue findings of fact and conclusions of law addressing the revocation of bond for the original offense, whether a new bond is issued for the previous offense as well as if bond is appropriate for the subsequent violent offense or felony offense involving a firearm.

(3) ~~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, notwithstanding if posted by the person, his representative, or by a bond surety. If a 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;

(4) ~~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; ~~and~~:

~~(D)~~ (5) ~~if~~ if a person commits a violent ~~offense~~crime, as defined in Section 16-1-60, or 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 ~~offense~~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 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.

(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.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 22-5-510 of the S.C. Code is amended to read:

Section 22-5-510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to

Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. "Violent offenses" as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

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

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(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 a 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.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law

enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

SECTION X. Section 24-13-40 of the S.C. Code is amended to read:

Section 24-13-40. The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; ~~or~~ (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

Renumber sections to conform.

Amend title to conform.

Motion Adopted

On motion of Senator HEMBREE, with unanimous consent, the amendment was withdrawn.

Amendment No. 3A

Senator HARPOOTLIAN proposed the following amendment (SMIN-3532.MW0049S), which was withdrawn:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 17-15-280. (A) To protect the fundamental rights of the accused and to advance the State's interest in speedy resolution of criminal trials, any person charged with a noncapital offense who is denied bond shall be brought to trial within one year of arrest or be released on his own recognizance.

(B) It shall be the duty of the court to ensure that the defendant is tried within the time specified above. No trial shall commence unless the prosecuting attorney first certifies to the court that discovery was fully produced at least thirty days prior and that all exculpatory information possessed by the prosecution team, including law enforcement, has been disclosed to the defendant and his counsel.

(C) Any extension of time requested and obtained by the defendant, on any delay attributable to the defendant's post-arrest conduct, shall be excluded from any calculation of the trial deadline.

(D) Any court of competent jurisdiction that finds that a defendant has not been brought to trial within the time set forth above, shall release the defendant on his own recognizance pursuant to conditions set forth in Section 17-15-10(A), unless good cause be shown to the court and the court makes a finding of fact, memorialized in written order, and a certain trial date set.

Renumber sections to conform.

Amend title to conform.

Motion Adopted

On motion of Senator HARPOOTLIAN, with unanimous consent, the amendment was withdrawn.

Amendment No. 16

Senator CLIMER proposed the following amendment (SR-3532.JG0076S), which was withdrawn:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

SECTION X. Section 17-15-40 of the S.C. Code is amended to read:

Section 17-15-40. (A) On releasing the person on any of the foregoing conditions, the court shall issue a brief order containing a statement of the conditions imposed, informing the person of the penalties for violation of the conditions of release and stating that a warrant for the person's arrest will be issued immediately upon any such violation. The person released shall acknowledge his understanding of the terms and conditions of his release and the penalties and forfeitures applicable in the event of violation thereof on a form to be prescribed by the Attorney General.

(B)(1) It is unlawful for a person to commit any crime when that person is already out on bond for a previous crime.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than five years.

Renumber sections to conform.

Amend title to conform.

Motion Adopted

On motion of Senator CLIMER, with unanimous consent, the amendment was withdrawn.

Amendment No. 17

Senator MATTHEWS proposed the following amendment (SMIN-3532.AA0075S), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 38-53-55. When a person engaged in electronic monitoring of a defendant charged with a violent offense as defined by Section 16-1-60 becomes aware that the defendant has had contact with the alleged victim of the violent offense or with the immediate family of the alleged victim of the violent offense, he must immediately or within twenty-four hours, notify law enforcement, the solicitor, and the court having jurisdiction over the defendant of the contact.

Renumber sections to conform.

Amend title to conform.

Senator MATTHEWS explained the amendment.

The amendment was adopted.

Amendment No. 18

Senator MALLOY proposed the following amendment (SJ-3532.BM0079S), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

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

Section 17-15-500. (A) There is established the South Carolina Pretrial Reform Commission composed of fifteen members as follows:

- (1) three members to be appointed by the chairman of the Senate Judiciary Committee;
- (2) three members to be appointed by the chairman of the House of Representatives Judiciary Committee;
- (3) three members of the judiciary to be appointed by the Chief Justice of the South Carolina Supreme Court;
- (4) three members of the executive branch to be appointed by the Governor; and
- (5) three members of the directly impacted community, including one crime survivor, one person that has been through the pretrial system, and a community member at large to be jointly appointed by the chairmen of both the House and Senate Judiciary Committees.

(B) The members of the commission may begin meeting when at least a quorum has been appointed and shall elect one member to serve as chairman. A quorum shall consist of at least eight members.

(C) The primary duty of the South Carolina Pretrial Reform Commission is to prepare a comprehensive report that reviews and recommends:

- (1) appropriate changes to the current pretrial system for all criminal offenses;
- (2) maintaining, amending, or abolishing the current system for determining pretrial release or detention; and
- (3) guidelines for legislation to improve the processing of cases in the Court of General Sessions, community safety, and court appearance outcomes.

(D) The purpose of the report is to enable the General Assembly to consider the Pretrial Reform Commission's findings and determine whether state laws should be amended.

(E) In making its recommendations, the commission must consider current case processing and correctional resources including, but not limited to, the capacities of local jails, community-based service providers, and state courts.

(F) The Pretrial Reform Commission must deliver its report and recommendations to the chairman of the Senate Judiciary Committee and the chairman of the House Judiciary Committee no later than July 1, 2024, and the commission shall terminate when the report is made.

(G) The Supreme Court shall provide appropriate staff for the commission. The chairman of the Senate Judiciary Committee may provide additional staff for the Senate members, and the chairman of the House Judiciary Committee may provide additional staff for the House members.

(H) Members of the Pretrial Reform Commission may receive per diem, subsistence, and mileage as provided by law for members of state boards, committees, and commissions.

Renumber sections to conform.