

"The Voice"



A PUBLICATION OF THE SOUTH CAROLINA CRIME VICTIMS' COUNCIL SUMMER 2010 VOLUME 4

The Council co-hosted their first in a series of trainings with SLED, January 11, 2010: **Achievements in DNA, "Focusing on Sexual Assault Victims"**. Special Guest Debbie Smith and her husband were the featured speakers at the January event and attendance was high. Both CLEE and Victim Advocate certification credits were offered to all attendees. SLED Director Reggie Lloyd opened the all day event. Senator Gerald Malloy of Darlington, who sponsored the most recent DNA legislation, was also a featured speaker. SLED experts brought several hours of vital information to law enforcement specialists and victim service providers. Lunch was provided by Hudson's Smokehouse of Lexington. The facilities at DJJ at the Bill Rodgers Community Connections Center were wonderful. The Series is addressing Violent Crime in SC. The next event in the series, dealing with child abuse and child fatality investigations, is to be held January 4, 2011, at the Connections Center.

Debbie Smith & her husband Robert visit with attendees at the DNA training January 11.

The Smith's organization, H.E.A.R.T. (Hope Exists After Rape Trauma), allows Debbie to travel around the country with her husband Robert to talk about her experience. Her purposes for talking about the attack are to help in her healing and to be the voice for the many women who have not been able to speak out. They would like to take away the stigma that comes with rape that tries to put the blame on the victim. They would also like to put rapists in jail before they have a chance to continue their rampage, as most rapists will attack between eight and twelve women before they are stopped.



INDEX

DNA TRAINING—Pages 1-2

Silent Witness—Page 3

Cold Case—Pages 4-7

2010 Public Policy—Pages 8-23

Cannibals—Page 24

Dumb Criminals—Page 25

MADD National Training—Page 25

VRW Celebration + Photos—Pages 26, 27

Court Watch + Magistrates Training—Pages 28, 29

Fund Raiser—Pages 30,31



SLED Assistant Director **Patsy Lightle** (left) enjoys the presentation at the conference series on DNA with **Katherine Richardson**, SLED Public Information Officer



Senator Gerald Malloy of Darlington speaks to an attentive audience in January of this year at DJJ's facility.



David McClure, SLED DNA analyst, presents DNA training tips to an eager audience



Ken Bogan, SLED DNA analyst, stands with Special Presenter **Debbie Smith** after she and her husband Robert brought a message on hope & survival to a full house of law enforcement, victim advocates, and SANE nurses.

Everything changed for rape victim **Debbie Smith** when the man who had raped her 6 years earlier was identified. When processed through Virginia's DNA databank, the DNA sample of her assailant collected years earlier had produced a match or "hit" with DNA of an inmate in a Virginia prison. As reflected by her compelling testimony, that DNA match gave Debbie final proof that her assailant would not "come back" for her, as he had threatened. What is more important is that it allowed her to begin healing.

Debbie's ordeal began at about 1 p.m. on May 3, 1989, at her home in Williamsburg, Virginia. She was cleaning house, doing laundry, and baking a cake. A light rain was falling, and her husband—a police lieutenant—was upstairs sleeping after working the night shift and appearing in court that morning. After stepping outside briefly, Debbie came back in and, for some reason, left the door unlocked. Within a few minutes, a masked stranger entered Debbie's house and nearly destroyed her life. The stranger dragged Debbie to a wooded area. He blindfolded her. He robbed her. And he raped her repeatedly, telling her, "Remember, I know where you live and I will come back if you tell anyone."

When allowed to return home, Debbie told her husband about the attack but in fear begged him not to call the police. She just wanted to take a shower and wash away the pain. Debbie's husband, however, convinced her to notify the police and visit a hospital where trained medical personnel could examine her and collect physical evidence that might identify the rapist. If she showered, that evidence would be lost. Debbie thanks God every day for her husband's advice. Although she was "plucked and scraped and swabbed" during her visit to the hospital, Debbie's rape examination kit produced the crucial DNA evidence that ultimately identified her attacker.

True peace of mind came for Debbie Smith on July 26, 1995, when a forensic scientist for the Commonwealth of Virginia notified Debbie that a DNA match had been made. Her assailant was serving time in a Virginia prison for a separate offense. Debbie learned later that her assailant had gone to jail only months after raping her. **Because of a backlog in Virginia's DNA database, she waited 6 years to hear about it.**

Because of the suffering Debbie and countless other victims of sexual assault have faced, legislation has been passed to improve investigations and services for this crime. The Debbie Smith Act, now part of the Justice For All Act of 2004, was signed into law on October 30, 2004.

Silent Witness Event / 10/6/2009

The Honorable Attorney General of SC, **Henry McMaster** speaks at the Silent Witness Event from the State House Steps



WORDS of WITNESS:

Mr. Dale Wells

Domestic Violence

Survivor



In 2008, 32 South Carolinians were murdered by their intimate partners. As citizens of this state, we have a responsibility to take a stand against this injustice. Therefore, our state joins with **more than forty other states in a mission "to promote peace, healing and responsibility in adult relationships."**

During the Silent Witness ceremony, wooden silhouettes represent the woman and men who have died due to domestic violence in South Carolina during the previous year. This year there were 33 silhouettes: 26 are for the known female homicide victims, 6 for the known male homicide victims, and one represented those victims of whom we are unaware.

The SC Attorney General's Office, through the S.T.O.P. Violence Against Woman Program, hosts this annual remembrance. Thank you Henry McMaster and staff!!!!



DSS Director **Katherine Hayes**, DSS Human Services Director **Mary Williams** & former SC Crime Victim Ombudsman **Hope Blackley** enjoy each other's company at the Silent Witness Program sponsored by the South Carolina Attorney General's Office

Special Honor was given this year to Corporal **William Howell** of Orangeburg County Sheriff's Office who gave his life in defense of a victim of domestic violence.

Unresolved Justice, Unrelenting Grief

Parents are never supposed to bury their children.

It's not the way life was meant to unfold.

Babies grow up one day to have babies of their own: little ones to be totally spoiled by doting grandmothers.

Daddies look forward with dread to that happy day when he walks his little girl down an isle bedecked with flowers and places her tender hand into the hand of the man who is promising to love and cherish her forever.

Children are the dreams of tomorrow, not the tears of today.

Eleven (Editor's comment: now Thirteen) years ago, a Prosperity couple sent their beautiful and loving daughter, Stacy Brooke Holsonback to Clemson University—a first step in her journey to achieving her dream of becoming a biochemist.

Brooke wanted to make a positive difference in this world, to do something good with her life, and she thought that receiving a degree in biochemistry was the way to accomplish her goals.

It was a happy and exciting time for the family, with the parents seeing their little girl growing up and spreading her wings for flight into adulthood and a daughter rushing into her future.

But on February 20, 1997, during the cold, dark hours of a winter's night, Brooke Holsonback was murdered, strangled to death by someone who then callously threw her lifeless body into the icy waters of Lake Hartwell in Oconee County.

No one has yet to be charged with Brooke's murder.

At the time of her death, Stacy Brooke Holsonback was 18 years old and was in the second semester of her freshman year at Clemson University. She was pledging the community service oriented Gamma Sigma Sigma Sorority, Oconee Sheriff's Office Lieutenant Greg Reed said.

"It was on a Thursday evening, about 9:30, when Brooke returned to her room after going to a sorority meeting," Reed said. "She then dropped by the room of a friend, (Lewis) Bryant Gallup."

Another student, Jeffery David Dubnansky, was with Gallup that evening, and both young men had been drinking before Brooke's arrival, he said.

"Gallup was the better friend of Brooke's and Dubnansky was someone she knew, an acquaintance," Reed said.

The two men had decided to go mudding, or off-road four wheeling, that night, sometime between 10:30 P.M. and 11:30 P.M. **The three students climbed into Gallup's 1996 black Cherokee and the group drove toward Seneca to an open field just off S.C. 123 and about two miles from the University,** he said.

"The Cherokee became stuck in the mud, and Gallup and Dubnansky started arguing, which turned into a physical fight," Reed said. **"When the fight was over, they said Brooke was nowhere to be seen, just gone." They said they thought she had walked back to the school,"** he said. **"Of course, we only have what they said happened to rely on."**

Reed, who has spoken to most of Brooke's family and friends during the criminal investigation, came to know the young woman as very feminine and gentle. It was a far reach for the detective to see her setting out on her own on that cold night.

"Brooke was a cheerleader in high school," he said. **"She liked girly things."**

"It was a long way from where they were back to her dorm, and it was dark," Reed said.

When the two men realized that Brooke was gone, they said the decision was made that Gallup would remain with the Cherokee while Dubnansky walked out to seek help. Dubnansky told investigators that he walked to a nearby diner and asked some people from the school for a ride.

came from God," he said. **"Our faith is strong."**

A waitress from that business confirmed that he had stopped by, sat at a table while he smoked several cigarettes, and then left, Reed said. After the men retrieved their vehicle, they returned to their dorm and slept, he said.

Just before noon on February 20, as Brooke Holsonback's roommate was filing a missing person report with the Clemson University Public Safety Department, Brooke's lifeless and fully clothed body was spotted floating in the Lake Hartwell waters just across from Clemson's YMCA, Reed said.

"It was almost simultaneously," he said. "Brooke's roommate was at the police department filing a report and a man who had stopped to have lunch near the lake was calling to report a body in the water."

Although initially it appeared that Brooke had drowned, an autopsy showed that she had been manually strangled to death before being put into the water. She also had a small cut on her lip, and bruises on her chest and right knee.

Reed said Gallup and Dubnansky were interviewed the day after Brooke's murder, but before the questions could be answered, both obtained the representation of attorneys.

"They lawyered up and there were no other interviews after that," he said. "Shortly after that, they dropped out of school and left the area."

"They told everyone that they left because of the pressure from law enforcement, but we didn't pressure them into leaving Clemson," he said.

In addition, heavy rains that Friday drove the lake levels up, plunging the field where the trio were mudding under water, he said.

"All that was gone, the tire tracks and footprints," he said. "The whole area was flooded." And while Reed was just beginning the most extensive investigation of his 24 years in law enforcement, Brooke's mother and dad were just beginning to face living without their daughter.

"Brooke was very smart," Warren Holsonback said. "She was loving and caring". "She was a good person and she had a good head on her shoulders," he said. "Brooke was a teenager having fun and enjoying life."

Her daddy said his daughter had an energy that attracted people to her, and she cared about each person—family and friends—who entered her life.

"Brooke could walk into a room and just light it up," he said. "She just cared so much about everyone."

"There's not a day goes by that we don't think about her," he said.

Holsonback said that it was early evening on the day that Brooke was murdered that her family was told about her death.

"It was about five o'clock that afternoon," he said. "I was coming home from work and when I turned in, I saw the coroner's car and our pastor's car sitting in my driveway." And although he realized then that the news he was about to receive would be bad, he never once thought that his little girl who had so much to live for and so much to offer had been killed, he said.

"My grandmother had been very ill, and I thought, well, I thought they were going to tell me something about her," he said. "It never once crossed my mind that it was about Brooke".

It was Holsonback's own brother, a deputy coroner, who delivered the terrible news, he said.

"My brother told me," he said. "But then I went in to my house and I told Debbie and Kelli and Justin, and that was hard." "That was the hardest thing I ever had to do," he said.

"Brooke's family faced the days and months and, now, years, following her murder with a steadfast faith in God, he said. "Our strength came from higher up," Holsonback said. "It was nothing I could do alone. "It

Holsonback said he and his family hold no animosity toward those responsible for Brooke's death.

"We are not bitter," he said "We try not to be bitter." "I know that one day this will be solved, and if not, then one day they will face the ultimate Judge," he said.

Still, knowing that there are people with knowledge about his daughter's death who are unwilling or lack the courage to answer those haunting questions about her last moments of life bothers Brooke's dad.

"Somebody knows something and they won't come forward, they won't give us that little bit of information , I just don't understand how they can do that," he said. "Somebody knows what happened."

Reed, who has followed leads on Brooke's murder to Ft. Lauderdale, New Orleans, Chappell Hill, Philadelphia, and Virginia Beach, knows that one day this case will be solved.

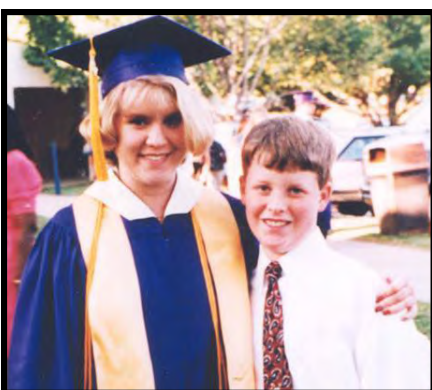
"An unsolved murder is never forgotten," he said. "It is always on your mind. And this one, it is so hard to understand how anyone could do this to a young woman who never harmed a soul and then just discard her like trash tossed into a lake. I feel certain Brooke's murder will some day be solved, if not by me, then by someone else," he said.

Louis Bryant Gallup, who last lived in Virginia Beach, and Jeffery Dubnansky, recently residing in Chappell Hill, remain "persons of interest." he said. Gallup, Brooke's supposed friend, and one of the last people to see her alive, has never contacted her family to extend his condolences or to pass on any tidbit about the final hours of her life.

"Not once, not the first time, has he called or mailed a card," Holsonback said. "We've never heard one word from him."

And while his faith in God continues to grow and his belief is unshakable that the investigators asking the questions will one day find the answers to Brooke's murder, Holsonback and his family still wait for those answers while they grieve for the daughter who loved them, who cherished her friends, and who was looking ahead to the good things her future held.

"So much of Brooke's life was just beginning," he said.



EDITOR'S NOTE:

The article above was reprinted by permission from an article that appeared in the Pickens Sentinel, July 2, 2008 entitled Cold Case # 97-M0002 / Homicide by then staff reporter **Rita-Sue Seaborn**. The SCCVC thanks Ms. Seaborn for her well written article.: Escape-toPC@gmail.com

Currently, the case has been adopted by the SLED Special Cold Case Unit headed by senior investigator & behavioral scientist, Mike Prodan. The case is being re-investigated.

The Holsonback family remains hopeful for a just and final resolution to the tragic murder of their daughter. Both Warren and Debbie Holsonback serve as members of the governing body of the SC Crime Victims' Council and have since the organizations' inception.

If you have information about the murder of Stacy Brooke Holsonback, please call the State Law Enforcement Division (SLED) at **803 737-9000**, ask for Mike Prodan or the Oconee County Sheriff's Department at **864 638-4111** or Oconee's Crime Stoppers at **864 638-STOP (7867)**.



Stacy Brooke Holsonback as a cheer leader at Saluda High School . Brooke led the sports fans as they cheered for the school's athletes. Brooke was looking forward to attending Clemson University and pursuing a degree in biochemistry.



Warren Holsonback, Brooke's Daddy, Brooke herself & Debbie Holsonback, her Mom, enjoyed life together every chance they could.

2009-2010 Legislation of Interest To Crime Victims & Service Providers

BILLS THAT BECAME LAW

H. 4256—COMMUNICATION INTERRUPTION BY SLED This legislation allows additional reasons for which the South Carolina Law Enforcement Division or authorized law enforcement officer may interrupt phone or internet communications by issuing administrative subpoenas to certain telecommunications providers in order to safeguard the public (which include threats to persons, hostage situations, resisting arrest with weapons, possibility of suicide, and threats to critical infrastructure). This bill authorizes SLED to promulgate regulations regarding issuing administrative subpoenas. The bill expands "good faith" coverage to internet providers under an administrative subpoena. The Senate version establishes that the Attorney General must give approval if a court is unable to give approval. *STATUS: Having passed the General Assembly, **H.4256** was ratified on June 21, 2010 (R. 348) and signed into law by the Governor on June 24.*

H.4202—CRIMINAL PENALTIES FOR TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES This legislation adds human trafficking to the list of violent crimes, to the list of Class A felonies, to the list of aggravating circumstances for murder, as an element to be considered in criminal sexual conduct (CSC) in the first degree, to the list of aggravating circumstances for CSC with a minor, to the list of most serious offenses, to the list of those offenders that must register as sex offenders, to the list of those offenders that are subject to residency restrictions, to the list of offenders who are subject to electronic monitoring for sex offenders, and as an element to be considered in distribution and trafficking of certain drugs. *STATUS: Having passed the General Assembly, **H.4202** was ratified on June 7, 2010 (R.324) and signed into law by the Governor on June 11. **Our Hero is Representative Harold Mitchell from Spartanburg seen here on the right as he comes out of the SC House of Representatives in June. Thanks Representative Mitchell!!!***

S.288—DRIVER'S LICENSE CODE INDICATING A VIOLENT CRIME RECORD The General Assembly approved **S.288**, a bill requiring markings on driver's licenses which inform law enforcement officers that a license holder has a violent criminal record. The legislation provides that when a person is convicted of or pleads guilty or no contest to certain violent crimes, the person must surrender his license or special identification card to the Department of Motor Vehicles by mail or in person. If the person fails to do so, the driver's license or special identification card is considered cancelled. Under this legislation, a person convicted of these crimes must have a special code affixed to the reverse side of his driver's license or special identification card that identifies the person as having been convicted of a violent crime. The bill provides a fee to be charged for affixing the code, and it provides a process for removing the code in the event of a reversal of the conviction, a pardon is obtained, or after a certain period of time has elapsed. The presence of a special identifying code on a person's driver's license or special identification card may not be used as a grounds to extend the detention of a person by law enforcement officer or grounds for a search of the person or his vehicle. *STATUS: Having passed the General Assembly, **S.288** was ratified on June 7, 2010 (R.296). On June 11, the Governor vetoed the bill. Both the Senate & House overrode the veto, June 11. Effective date July 1, 2011. **Crime victims' heroes are Former Chief of SLED, Robert Stewart & Cindy Konduras seen on the right both of whom put up with a lot to accomplish this new law. Thanks team!***

S.973 — "ELECTRONIC SECURING AND TARGETING OF ONLINE PREDATORS ACT (E-STOP)" —SECURING AND TARGETING OF ONLINE PREDATORS ACT (E-STOP)"

This legislation requires a sex offender who is required to register with the sex offender registry to provide information regarding the offender's Internet accounts and Internet access providers and Internet identifiers. If any changes to this information occur, the sex offender must notify the sheriff's office in writing within three business days. The sheriff must notify the South Carolina Law Enforcement Division (SLED) within three business days of the changes. There are



penalties for failing to provide the information or knowingly and willfully giving false information regarding an Internet account or Internet identifier. The legislation allows an interactive computer service to request from SLED a list of all registered sex offenders or information regarding specific sex offenders. SLED may charge a reasonable fee to cover the cost of copying and distributing this information. The legislation outlines how an interactive computer service may use the information. The legislation includes provisions pertaining to the liability of SLED and interactive computer services. For certain sex offenders, the legislation requires a judge to order as a condition of probation or parole that the person is prohibited from using the Internet for certain reasons, including accessing social networking sites. **S.973** also makes other changes to the sex offender registry. Among other things, the legislation requires a person classified as a Tier III offender by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA) to register every 90 days. For changes in address, the legislation reduces the time frame for notifying the sheriff's office from ten to three business days. The legislation defines a 'temporary residence' or 'residence' as the location of the individual's home or other place where the person habitually lives or resides, or where the person lives or resides for a period of ten or more consecutively days. The legislation requires additional information to be provided about vehicles, trailers, mobile homes and manufactured homes, and aircraft. The legislation also requires registration in counties where an offender is employed or volunteers or interns or carries on a vocation in schools. The legislation requires palm prints, Internet identifiers, and passport and immigration status. The legislation increases penalties for failing to provide required information and for willfully and knowingly providing false information. The legislation also makes changes to what the SLED protocol manual should include. *STATUS: Having passed the General Assembly, **S.973** was ratified on June 1, 2010 (R.258) and was signed into law by the Governor on June 7.*

Thanks Senator Campsen of Charleston!!!

H. 4205—EXCEPTIONS TO THE REQUIREMENT FOR DESTRUCTION OF CRIMINAL RECORDS WHEN A CHARGE IS DISMISSED OR THE PERSON IS FOUND INNOCENT. Under this Act, these provisions do not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5, or any other state criminal offense if the person is not fingerprinted for the violation. The legislation also authorizes the State Law Enforcement Division to promulgate regulations that allow for the electronic transmission of information. *Status: Having passed the General Assembly, **H. 4205** was ratified on May 6, 2010 (R.197) and signed into law by the Governor on May 12 (Act No. 167).*

H.3803—JURISDICTION OF THE PROBATE COURT This legislation amends numerous statutes relating to the various actions and proceedings concerning the affairs of decedents, protected persons, minors, and incapacitated persons falling under the subject matter jurisdiction of the probate court, so as to differentiate between a formal proceeding and an application to the court and the procedural rules governing each. Among other things, the legislation requires the filing and service of a summons and petition to commence a formal proceeding, distinguishes the requirement of summons and petition from the notice requirements for a hearing on a petition. The legislation also amends statutes relating to the South Carolina Trust Code, so as to substitute "person" for "parent" and "issue" for "child", delete the requirement of a taxpayer identification number on a certificate of trust, allow certain reimbursements to a prospective trustee, and make technical changes. *STATUS: Having passed the General Assembly, **H.3803** was ratified on June 1, 2010 (R.274) and signed into law by the Governor on June 7.*

S.186—LIMITATIONS ON ATTORNEY'S FEES IN STATE-INITIATED ACTIONS. This bill limits attorney's fees in state-initiated actions to a reasonable time expended at a reasonable rate. The bill outlines factors to be applied in determining a reasonable rate. The judge must make specific written findings regarding each factor in making the award of attorney's fees. However, in no event shall a prevailing party be allowed to shift attorney's fees that exceed the fees the party has contracted to pay counsel personally for work on the litigation. The bill also provides that in civil actions, an agency is presumed to be substantially justified in pressing its claim against the party if the agency follows a statutory or constitutional mandate that has not been invalidated by a court of competent jurisdiction. *STATUS: Having passed the General Assembly, **S.186** was ratified on February 18, 2010 (R.124) and signed by into law by the Governor on February 24 (Act No. 125).*

S.217—LOCAL DETENTION FACILITY MUTUAL AID AND ASSISTANCE ACT-This legislation makes technical changes to Title 24, of the South Carolina Code of Laws, relating to the detention of persons in local detention facilities. The bill deletes archaic provisions that do not reflect current practice and also codifies language that does reflect current practice. Major substantive changes to the bill include the following: A municipal or county jail administrator must consent, rather than the sheriff alone, when deciding where to house a prisoner. Local detention facilities are added to the list of facilities where conjugal visits are not allowed. Local detention center directors are given the same authority as a prison director within the Department of Corrections to suppress riots and investigate misconduct. Any person received by the jail who appears to be in a stupor must be examined by medical personnel before being admitted into the jail. A sheriff is authorized to devolve their powers over a jail to a county governing body who may then employ a jail administrator, and a county governing body may devolve the power back to the sheriff. Local detention facilities are allowed to charge to house an inmate. Local detention facilities that are contiguous to each other can enter into agreements for the safe detention of inmates in the case where one facility is unable to safely house their inmates. The Senate amended the bill to modify the way in which medical bills are paid in regards to local jails and to allow Corrections to retain certain funds to run a statewide notification program. *Status: Having passed the General Assembly, **S.217** was ratified on June 7, 2010 (R.295) and signed into law by the Governor on June 11 (Act 237). **This Bill was***



Senator Mike Fair of Greenville:

803 212 6420

amended in the last few days of the session to redistribute monies from Prison Industries and work programs from crime victim programs to the SAVINE automated system within the Department of Corrections. This is the second raiding of crime victim funds from SOVA and the State Victim Assistance Program at DPS to go to programs at the Department of Corrections. Many service providers and crime victims are very unhappy at this last minute re-appropriation that was approved by the Governor's Office, Sheriff's Association, Barbara Grissom (Victim Advocate at the DOC) Senator Fair's Office (David Jordan) and the Association of Counties. Neither the State Office of Victim's Assistance (SOVA) or the Department of Public Safety were informed of their losses prior to the passage of the Bill. All crime victims should be outraged at the raiding of two of their programs by a State Agency. The SC Crime Victim Coordination Council was not consulted. Contact Senator Mike Fair of Greenville at 803 212-6420 to express your opinion.

S. 329—PROTECTIONS FOR EXECUTION TEAMS. This legislation prohibits a person from disclosing the identity of a current or former member of an execution team or from disclosing a record that would identify a person as being a current or former member of an execution team. An exception is provided to allow disclosure upon a court order under seal for the proper adjudication of pending litigation. Any person whose identity is disclosed shall have a civil cause of action against the person who is in violation of this section and may recover actual damages and, upon a showing of a wilful violation, punitive damages. The bill further provides that no licensing agency, board, commission, or association may file, attempt to file, initiate a

proceeding, or take any action to revoke, suspend, or deny a license to any person solely because that person participated in the execution of a sentence of death on a person convicted of a capital crime as authorized by law or the director. *Status: Having passed the General Assembly, **S.329** was ratified on June 1, 2010 (R.249) and signed into law by the Governor on June 7 (Act No. 203).*

S. 134—"RELIGIOUS VIEWPOINTS ANTIDISCRIMINATION ACT" This legislation prohibits a school district from discriminating against a student based on religious viewpoint. The legislation allows a student to express his religious viewpoint, allows a student to express his religious beliefs in homework and classroom assignments, and allows students to organize and participate in religious student gatherings to the same extent as secular non-curricular groups. *STATUS: Having passed the General Assembly, **S.134** was ratified on May 25, 2010 (R.219) and signed into law by the Governor on May 28 (Act No.180)*

S.931— REVISIONS PERTAINING TO SEXUALLY VIOLENT OFFENDERS This bill makes comprehensive revisions pertaining to sexually violent offenders. The bill provides that the agency with jurisdiction must give written notice to the multidisciplinary team, the victim, and the Attorney General at least 270 days, rather than 180 days as is currently required, before the person's anticipated release, hearing or parole. If the appropriate department intends to grant parole or conditional release to a person who has been convicted of a sexually violent crime, the parole or the conditional release must be made effective 180 days after the date of the order of parole or conditional release. The previous language provided that the parole or conditional release must be made effective 90 days after the date of the order of parole or conditional release. If the probable cause determination is made, upon completion of the criminal sentence, the court must have the individual transferred to a facility of the Department of Mental Health for an evaluation by a court-appointed expert to determine whether or not the person is a sexually violent predator. The expert must complete the evaluation within 60 days after the probable cause hearing. However, the court may grant one extension upon request of the expert and upon good cause shown. A court must conduct a trial to determine whether a person is a sexually violent predator. Current law requires that the trial must be held within 60 days of the completion of the probable cause hearing. The legislation provides that the trial must now be conducted within 90 days after the court-appointed expert issues an evaluation on the individual. The individual or Attorney General may retain another qualified expert following the evaluation issued by the court-appointed expert. The Director of the Department of Mental Health is required to certify in writing with specific basis thereof, a determination that a person's mental abnormality has changed to the point to where the person is no longer likely to commit acts of sexual violence and are, therefore, authorized to petition the court for release. The Director is also required to notify the Attorney General of the notification and authorization. The court must order a hearing within 30 days of receiving the petition of release unless the Attorney General requests an evaluation of the individual by a qualified expert or the Attorney General or petitioner request a trial by jury. If the Attorney General's expert determination is adverse to the petitioner, then the petitioner shall have the right to retain a qualified expert of his or her own choosing. This legislation also provides a procedure for allowing indigent petitioners to obtain a qualified expert if the court finds such an examination necessary. *STATUS: Having passed the General Assembly, **S.931** was ratified on May 6, 2010 (R.185) and signed into law by the Governor on May 12 (Act No. 158). This Bill was supported by the SC Attorney Generals' Office. Special thanks to Brian Stirling of the AG's Office.*

S.191—"SOUTH CAROLINA REDUCTION IN RECIDIVISM ACT OF 2010" In order to reduce recidivism rates and protect potential victims from criminal enterprises, the legislation authorizes law enforcement officers to conduct warrantless searches and seizures on those who are on probation or parole. The legislation provides that, before an individual may be placed on probation, supervised furlough, or parole, he must agree in writing to be subject to a search or seizure, without a search warrant, based on reasonable suspicions, of his person, any vehicle he owns or is driving, and any of his possessions by any probation agent employed by the Department of Probation, Parole and Pardon Services or any other law enforcement officer. The legislation also includes provisions that make written agreement to such warrantless searches and seizures a condition for the release from custody of juveniles and youthful offenders. Agreement to warrantless search and seizure does not apply in situations involving a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year. Before conducting a warrantless search or seizure of an individual, a law enforcement officer must verify the individual's probation, parole, supervised furlough, or conditional release status. Officers are required to make reports of all warrantless searches or seizures to their law enforcement agencies that include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. An officer who fails to make a required report is subject to the disciplinary policy of his agency, but, in the absence of a written agency policy on enforcement, the officer is subject to a one-day suspension without pay. Law enforcement agencies must submit the reported information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. The department must report any finding of abuse to the State Law Enforcement Division for investigation. *STATUS: Having passed the General Assembly, S.191 was ratified on March 25, 2010 (R.140) and vetoed by the Governor on March 31. The Senate voted to override the veto on April 14 and the House of Representatives voted to override the veto on April 28 to allow the legislation to become law (Act No. 151). This bill was extremely controversial and special thanks goes to Jack West and the team formed by Mayor Riley of Charleston for courage and labor beyond the call of duty. Insults were freely hurled at law enforcement from members of the House during the debates...all of law enforcement, to their credit, remained calm and quiet...what a shameful thing to have occurred...the courtesy level in the House of Representatives is at an all time low.*



Senator Greg Ryberg of Aiken Sponsor of the new law to protect children in schools

April 14 and the House of Representatives voted to override the veto on April 28 to allow the legislation to become law (Act No. 151). This bill was extremely controversial and special thanks goes to Jack West and the team formed by Mayor Riley of Charleston for courage and labor beyond the call of duty. Insults were freely hurled at law enforcement from members of the House during the debates...all of law enforcement, to their credit, remained calm and quiet...what a shameful thing to have occurred...the courtesy level in the House of Representatives is at an all time low.

S.107, CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE REVISIONS (STUDENT/SCHOOL EMPLOYEE SEXUAL CONTACT PROHIBITONS).—NEW SEXUAL BATTERY LAW. This Legislation creates a new law by adding § 16-3-755 that provides for levels of sexual battery penalties concerning students by teachers and school personnel.

(B) "If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is sixteen or seventeen years of age, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

(C) If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled

in the school who is eighteen years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for thirty days, or both.

(D) If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

(E) This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act."

The Bill was introduced by Senator Greg Ryberg of Aiken, Senators Bryant, Massey, Peeler, Larry Martin and Alexander co-sponsored the bill. *STATUS: Having passed the General Assembly, signed by the Governor on June 24, 2010, it became effective June 24, 2010. The Bill was pre-filed in December, 2008. The Bill passed the Senate after being*

"scrubbed" by Senator Brad Hutto of Orangeburg, but it was a difficult Bill to get heard in the Criminal Law Subcommittee. Then when it finally got on to the House Floor, a non-germane amendment was attached to it...the Senate, to its credit refused to concur, but as the clock was running, it looked like the Bill would be lost. The advocates in the crime victim community and the Department of Education + the Governor's Office rallied behind the Bill and it was successful in the waning hours of the session. **Special thanks to Senator Greg Ryberg, Oran Smith of the Palmetto Family Alliance, Mark A Bounds, Deputy Superintendent of Educator Quality and Leadership, Vickie Bourus of SCCADVSA, and her affiliates, the Governor's Office & others concerned with the welfare of our children. Legislation to protect children should not be this difficult to do. Our state needs an attitude adjustment concerning children. Also, special thanks to Rep. Tom Young of Aiken for introducing a companion Bill in the House.**

S. 1120—SOVA COMPENSATION. This legislation prohibits Health Care Providers from Collection Actions on Crime Victims within certain time frames. *STATUS: Signed by Governor June 11, 2010, Effective June 11, 2010.* **Special thanks to Dr. Larry Barker at the State Office of Victim Assistance and the Crime Victim Coordinating Council for this needed relief for crime victims with medical / psychological expenses.**



Senator Jake Knotts of Lexington jokes with **Chairman Senator Gerald Malloy** of Darlington, while **Judge "Billy" Keesley** and **Solicitor Kevin Brackett** look on at a meeting of the Sentencing Reform Committee.

S.1154 —"**THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010,**" ectional funding, and improve public safety. The stated intent of Part I of this legislation is to provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism. Part I of the legislation makes numerous and various revisions to criminal offenses. Many of the changes add levels to the various degrees of an offense, increase maximum penalties, or allow discretion to judges with regards to probation and parole for offenses. The stated intent of Part II of this legislation is to provide cost-effective prison release and community supervision mechanisms and cost-effective and incentive-based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety. Part II of the legislation focuses on evidence-based practices in order to use proven methods that can make smarter use of the Department of Probation, Parole and Pardon Services. Among numerous other things, the legislation provides incentives to persons under supervision to comply with conditions. Part III provides oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations. *STATUS: Having passed the General Assembly, S.1154 was ratified on June 1, 2010 (R.262) and signed into law by the Governor .*

The following is an outline of the Parts and Sections of Senate 1154 prepared by JJ Gentry of the Senate Judiciary Staff with some additions added by the editor in RED:

S. 1154
BULLETS By JJ Gentry

Overall purpose of bill

- Ensures there is prison space for high-risk, violent offenders and that those offenders serve longer terms in prison;
- Requires supervision for offenders leaving prison so they cannot just disappear into South Carolina communities without any oversight;
- Improves supervision for those on probation and parole so that there are incentives to stay crime and drug free and transition from tax burdens to taxpayers; and Through implementation of provisions of Act, get smart on crime, reduce recidivism, provide fair and effective sentencing options, employ evidence-based practices for smarter use of correctional funding, and improve public safety.



JJ Gentry

Senate Counsel to **S.1154—"THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010"**

PART I - Most of crimes in PART I were chosen because they are largest drivers of prison population where change can benefit tax payers but still keep public safe. For most changes, the changes added levels to the various degrees of an offense, increased maximum penalties, or allowed discretion to judges on probations and paroles for drug offenses.

Section 3: Restructures arson statutes so that elements are more clearly defined, and maximum punishment is increased.

Sections 4, 5: **Renames lynching offenses to "assault and battery by a mob" and tiers the penalties to better fit escalating elements.**

Sections 6, 7, 8: Removes all of special crimes dealing with particular individuals, so that all are contained within the new assault and battery statute. Contains increasing penalties to fit escalating elements, so have A&B, 1st degree (0-30 days); A&B, 2nd degree (0-3 yrs.); A&B, 3rd degree (0-10 yrs.); ABHAN (0-20 yrs.), and then Attempted Murder (0-30)- used H. 4226 structure, made some changes to fit within SC laws and for range of penalties to be similar to neighboring states, so violent crime statistics in SC consistent with other states. Also contains provisions to explain about Code references. **Also changes the definition of Moderate Bodily Injury: (2) 'Moderate bodily injury' means physical injury requiring treatment to an organ system of the body other than the skin, muscles, and connective tissues of the body, except when there is penetration of the skin, muscles, and connective tissues that require surgical repair of a complex nature or when treatment of the injuries requires the use of regional or general anesthesia.**

Sections 9, 10: Revisions to bond hearings; requires officers at bond hearings to provide various information on defendant to the judge, including information on pending charges, so judge has more knowledge of defendant requesting bond; clarifies that the judge has contempt powers to enforce the provisions.

Section 11: Inserts levels for Burglary 2nd degree to clarify the different degrees and account for aggravating circumstances.

Section 12: Disturbing schools provision clarifies that summary courts (magistrates and municipal courts) have jurisdiction over these cases, and clarifies juveniles remain under Family Court jurisdiction.

Section 13: **For appropriate cases, allows reduction of offenders' sentences, based on cooperation with law enforcement, DOC, and prosecutors. Called "Downward Departure" in Federal Court. This procedure can only be initiated by prosecution.**

Sections 14, 15: Clarifies that misdemeanor offenses for driving without a license and handicapped parking violations are within jurisdiction of summary courts. For driving under suspension cases, allows amnesty week and installment plans for reinstatement fees by DMV in certain circumstances and only for certain offenses.

Sections 16, 17: Comprehensive property theft crime revisions for statutes not updated in almost 20 years so as to increase value of property closer to present day values, to increase fines for first offenses, but retain **summary courts' jurisdiction of first offenses when they are misdemeanors. Also repeals provision on video rentals because now consolidated within revisions to Section 16-13-420, dealing with rented or leased property.**

Section 18: Changes to DUS laws by allowing home detention option for 3rd offense; allows route restricted drivers' licenses for DUS, 1st and 2nd offense; and provides for increased penalties for great bodily injury or death when person is an habitual offender, and drives with a suspended license:

Article 5, Chapter 1, Title 56 of the 1976 Code is amended by adding:

"Section 56-1-1105. (A) For purposes of this section:(1) 'Great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. (2) 'Habitual offender' has the same meaning as in Section 56-1-1020. (B) An habitual offender who drives a motor vehicle on any public highway of this State when the offender's license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony, and, upon conviction, guilty plea, or nolo contendere plea must be punished:

(1) by a fine of not more than five thousand dollars and imprisonment for not more than ten years when great bodily injury results; or

(2) by a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisonment for not more than twenty years when death results.

(C) The Department of Motor Vehicles must suspend the driver's license of an habitual offender who is convicted, pleads guilty, or pleads nolo contendere pursuant to this section for a period to include incarceration plus two years when great bodily injury results and three years when death results. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident shall run concurrently." (Editor's Note: Special thanks to Solicitor Barry Barnett and Lilly Linderman ...grandmother of grandson killed by an habitual offender in Spartanburg.... for this added piece of legislation for victims)

Section 19: Increases maximum penalties for harboring a fugitive.

Section 20: **Gives solicitors the discretion to charge for "serious" or "most serious" offenses, and also provides that repeat offenders of these types of crimes will get life without parole sentences. Also adds "attempted murder" and to the list of most serious offenses, and "assault and battery of a high and aggravated nature" to the list of serious offenses. It also retains the offenses of lynching in first and second degrees on the 2 lists, but adds assault and battery by a mob in the first and second degrees, since that is how lynching crimes will now be called.**

Section 21: Clarifies that penalties for murder are not just 30 yrs. or life, but instead are 30 yrs. to life.

Section 22: Repeals obsolete crimes for murder, such as killing by poison, by stabbing, or by dueling, since those are all covered by the murder statute.

Sections 23, 24: Increases amounts of victim restitution allowed in summary courts to conform to civil jurisdiction **amount in summary courts. Means that if magistrates' civil jurisdiction increases, so do amounts victims can claim for restitution. Cap was \$5,000...now \$7,500**

Section 25: Prohibits persons convicted of a violent crime that is on the SC violent crime list ([Section 16-23—10 \(3\)](#)) from possessing firearms.

Section 26: **Adds 22 crimes to violent crime list that are existing offenses, but were not classified as "violent", even though most resulted in death of victim; result will be no availability for parole or probation until served 85% of sentence and other restrictions.**

Section 16-1-60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder ([Section 16-3-10](#)); attempted murder ([Section 16-3-29](#)); assault and battery by mob, first degree, resulting in death ([Section 16-3-210\(B\)](#)); criminal sexual conduct in the first and second degree ([Sections 16-3-652 and 16-3-653](#)); criminal sexual conduct with minors, first and second degree ([Section 16-3-655](#)); assault with intent to commit criminal sexual conduct, first and second degree ([Section 16-3-656](#)); assault and battery with intent to kill ([Section 16-3-620](#)); assault and battery of a high and aggravated nature ([Section 16-3-600\(B\)](#)); kidnapping ([Section 16-3-910](#)); voluntary manslaughter ([Section 16-3-50](#)); armed robbery ([Section 16-11-330\(A\)](#)); attempted armed robbery ([Section 16-11-330\(B\)](#)); carjacking ([Section 16-3-1075](#)); drug trafficking as defined in [Section 44-53-370\(e\)](#) or trafficking cocaine base as de-

fined in Section 44-53-375(C); manufacturing or trafficking methamphetamine as defined in Section 44-53-375; arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); burglary in the first degree (Section 16-11-311); burglary in the second degree (Section 16-11-312(B)); engaging a child for a sexual performance (Section 16-3-810); homicide by child abuse (Section 16-3-85(A)(1)); aiding and abetting homicide by child abuse (Section 16-3-85(A)(2)); inflicting great bodily injury upon a child (Section 16-3-95(A)); allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B)); criminal domestic violence of a high and aggravated nature (Section 16-25-65); abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E)); accessory before the fact to commit any of the above offenses (Section 16-1-40); attempt to commit any of the above offenses (Section 16-1-80); and taking of a hostage by an inmate (Section 24-13-450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10-33-325(B)(1)); spousal sexual battery (Section 16-3-615); producing, directing, or promoting sexual performance by a child (Section 16-3-820); lewd act upon a child under sixteen (Section 16-15-140); sexual exploitation of a minor first Degree (Section 16-15-395); sexual exploitation of a minor second degree (Section 16-15-405); promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); aggravated voyeurism (Section 16-17-470(C)); detonating a destructive device resulting in death with malice (Section 16-23-720(A)(1)); detonating a destructive device resulting in death without malice (Section 16-23-720(A)(2)); boating under the influence resulting in death (Section 50-21-113(A)(2)); vessel operator's failure to render assistance resulting in death (Section 50-21-130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55-1-30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56-5-750(C)(2)); interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56-5-1030(B)(3)); hit and run resulting in death (Section 56-5-1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56-5-2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57-7-20(D)); obstruction of a railroad resulting in death (Section 58-17-4090); accessory before the fact to commit any of the above offenses (Section 16-1-40); and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses."

Sections 27, 28,

29, 30, 31: Revisions to work release provisions of inmates, so that some inmates, who pass vetting process of DOC, but who would not otherwise be allowed to participate in work release, will be eligible for work release in the last 3 years of their sentence. Data from DOC showed that recidivism rate increased by **10% when blanket disallowance of work release for all violent offenders enacted in 2003. Still won't** apply to majority of violent offenders, and will still have to pass DOC procedures.

Sections 32, 33,

34, 35: **Requires notifications to victims when YOA offender is conditionally discharged;** also allows persons within age range of YOA to be eligible for YOA sentencing for burglary 2nd degree, but has to serve **minimum of 3 yr. sentence; allows YOA sentencing for "Romeo" offenses, where there has been alleged** consensual criminal sexual conduct and no great disparity between ages of offender and victim. Also makes corrections, per *Gay v. Arial* case to clarify when a youthful offender sentence may be expunged.

Section 36: Allows increase of drug surcharge to \$150 to increase currently required funding for drug courts.

Section 37: Conforms current controlled substance list to federal list.

Sections 38, 39: Comprehensive restructuring of drug offenses so Trafficking in drugs remains violent offense, and no probation or parole allowed; equalized penalties for all drug offenses so no disparity for crack vs. cocaine possession; for lesser drug offenses, retain mandatory minimum sentences for 2nd and 3rd offenses, but allow flexibility for 1st offense, and allow possibility of probation or parole for 2nd and 3rd offenses, based on certain criteria. Also clarifies that all of ephedrine, etc. substances are Trafficking offenses not eligible for probation or parole.

Section 40: Clarifies elements of offenses concerned with drug distributions and proximity to schools.

Section 41: Increases conditional discharge fee allowable for specific drug offenses, and requires the fees to fund drug courts.

Section 42: Redefines what is considered a 2nd or subsequent drug offense for specific drug crimes, and provides definite time lines for when past offenses are considered.

Section 43: Allows judge to order reimbursement from defendants to law enforcement agencies for monies used to by the agencies to buy drugs during criminal investigations.

Section 44: Follows majority of states where suspensions for controlled substance convictions are for 6 months- does not pertain to DUI or other crimes of driving while impaired; also plan to introduce Joint Resolution requesting this not apply to SC, so it won't jeopardize DOT federal funds.

Focused legislation on evidence-based practices, to obtain and use proven methods that can make smarter use of PPP resources, provide incentives to persons under supervision to comply with conditions, and reduce overall costs of correctional system.

- Section 46: Adds new definitions dealing with PPP activities, such as the new procedure called administrative monitoring. PPP has had administrative hearing officers for over 20 years, even though never defined by statute. Federal and state case law from 1972 and 1978 require probable cause preliminary hearings prior to probation or parole revocations, and PPP hearing officers are restricted to only these types of hearings. All other states reference these hearing officers in statute, so subcommittee decided to include definition, but not expand the limited duties, except where now required by the changes in this act.
- Sections 47, 48: Increases education and experience requirements for Probation, Parole and Pardon director and the at-large parole board member. Also, requires PPP director and PPP agents to write policies and procedures to use assessment tools that identify offender needs as well as criminal risks, so that probationers and parolees are better evaluated and not just supervised.
- Section 49: Requires mandatory reentry supervision of 180 days prior to release of all nonviolent inmates incarcerated for at least 2 years, since violent inmates are required to complete intensive community supervision. **Data showed more inmates choose to "max-out" sentence rather than go through parole or probation because don't want the supervision. Mandatory reentry supervision means fewer inmates are released back to the community without some supervision.**
- Sections 50, 51: Requires PPP agents to use more data and evidence-based practices for assessment and supervision of probationers and parolees. Research shows that assessment of criminal risk factors as well as supervision requirements work best in reducing recidivism. Also, allows persons under PPP supervision to **earn "good-time" credits for meeting all of conditions of probation or parole. This will free up PPP agents to supervise the ones who need it the most.**
- Section 52: Although PPP has employed hearing officers for the past 20 years because of federal and state case law, now required to promulgate regulations for qualifications and procedures for hearings.
- Section 53: Establishes the procedure of administrative monitoring. Allows extension of current statutorily mandated 5-yr. probation period to be extended for persons under the supervision of PPP who have not repaid all of their restitution, fines, and fees for sole purpose of repayment. Low-level monitoring so long as payments are made.
- Section 54: Establishes in statute administrative intermediate sanctions, which can be imposed by PPP against persons under supervision. Allows for swift and immediate sanctions to be imposed so punishment is timely and proportionate to the violation. Can be imposed at agent level or by hearing officer at preliminary hearing. Research showed very effective in decreasing probation and parole violations, and therefore decreases number of probationers and parolees returning to prison. Requires PPP to promulgate regulations for implementation.
- Section 55: Sets forth procedure for payment of the administrative monitoring obligations, so that payments are made pro-rata to each of the financial obligations of restitution and fees. Fines are collected by clerks of court, so continues that procedure, as already established in law.
- Section 56: Provides for special parole of inmates who, because they are terminally ill, geriatric, or physically disabled, no longer pose a public risk. Medical condition determinations must be established by licensed physician. Only the director of DOC may petition for the special parole-not an inmate or his family. The full Parole Board hears the matter, and the inmate remains under parole supervision. If parole agent finds conditions do not continue, can arrest inmate, revoke parole, and put inmate back in prison.
- Section 57: Requires Prosecution Coordination Commission to collect and report data on pre-trial diversion programs, like PTI, drug courts, alcohol and traffic education programs, or juvenile arbitration. Sentencing Reform Commission discovered no central data collection, so could not determine effectiveness of programs. This collection and reporting of data to be the first step to evaluations by oversight committee and in recommending state-wide diversion programs.
- Section 59: Codified memorandum between DOC, DMV, and PPP to assist inmates released from DOC to have identity cards, in order to facilitate employment after release.

PART III. Provides accountability by establishing oversight of legislation.

Section 60: Purpose of new section is to facilitate General Assembly having accurate fiscal impact information on new criminal law legislation. Allows legislators introducing new criminal law legislation to obtain assistance from state budget office before legislation is introduced. Sets timelines for fiscal information to requesting committees. Also allows budget office to contact non-governmental agencies and organizations for fiscal impact information.

Section 61: Establishes Sentencing Reform Oversight Committee. 7 members- 3 (2 senators, 1 member of public) appointed by Senate Judiciary chair; 3 (2 representatives, 1 member of the public) appointed by the House Judiciary chair; and 1 appointed by the Governor. Tasked with overseeing implementation of recommendations from SRC report, and reviewing reports required in legislation to evaluate effectiveness of changes, as well as to recommend performance incentive funding, based on actual results. Required to make recommendations to legislature on additional changes needed and report on evaluations. Sunsets after 5 years, unless renewed by joint resolution.

PART IV. Effective date, one-subject provision, savings, and severability clauses.

Section 65: Provisions of PART I and II become effective January 1, 2011, except that certain DMV provisions become effective on that date or 6 months after the Governor signs, whichever is later, in order to give the department time to implement the procedures. All other provisions become effective upon signature of the Governor.



Kendra Gaddie

S. 348—"KENDRA'S LAW" This legislation by adding Section 63-13-825, requires that family childcare operators and caregivers must annually complete a minimum of **two hours of training approved by the Department of Social Services**. Also, Section 16-3-740 (B) is amended to read:

"(B) Upon the request of a victim who has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a victim who has been exposed to body fluids during the commission of a criminal offense, the solicitor must, at any time within forty-eight hours, excluding weekends and legal holidays as defined in Chapter 5 of Title 53, after the offender is charged, or at any time within forty-eight hours, excluding weekends and legal holidays, as defined in Chapter 5 of Title 53, after a petition has been filed against an offender in family court, petition the court to have the offender tested for Hepatitis B and HIV. An offender must not be

tested under this section for Hepatitis B and HIV without a court order. To obtain a court order, the solicitor must demonstrate the following:

- (1) the victim or the victim's legal guardian requested the tests;
- (2) there is probable cause that the offender committed the offense;
- (3) there is probable cause that during the commission of the offense there was a risk that body fluids were transmitted from one person to another; and
- (4) the offender has received notice of the petition and notice of his right to have counsel represent him at a hearing.



Senator Mike Fair of Greenville sponsored "Kendra's Law"

The results of the tests must be kept confidential and disclosed only to the solicitor who obtained the court order. The solicitor shall then notify only those persons designated by law. *STATUS: Set for Ratification after both the Senate and the House accepted the Conference Committee report. **Not yet Ratified at the time of publication.** Becomes law upon the signature of the Governor. Special appreciation to **Senators Fair, Shoopman, Sheheen, Shane Martin, Lourie, Knotts and Rose** for the extra effort that was made to ensure passage of this controversial Bill. Senator Lourie's remarks on the Senate Floor were especially appreciated by this writer. Important legislation frequently is birthed by deep tragedy...this legislation has a tragic history affecting **Kendra Gaddie** (who was severely injured by her caregiver, Talisha Smith-Sherrod, on March 19, 2008, when Kendra was only 7 months old), whose parents **Patrick and Michelle Gaddie**, devoted many hours to helping both craft & shepherd this legislation through long hours of arduous debate. For a more in depth history of this family's ordeal, see last year's "Voice".*

H. 4248—REQUIREMENT FOR CRIMINAL BACKGROUND CHECKS OF SUBSTITUTE TEACHERS AND OTHERS WORKING IN SCHOOLS. The legislation requires an individual hired by a local school district board of trustees to serve in any capacity in a public school in this State to undergo a name-based South Carolina State Law Enforcement Division (SLED) criminal record search. The legislation requires school districts to perform a National Sex Offender Registry check on all district employees hired to serve in any capacity in a public school and all volunteers who work in a school on an interim or regular basis as mentors, coaches, or any other capacity, or volunteers who serve as student chaperones or any other capacity having direct interaction with students. School district boards are required to adopt written policies on background searches, but policies must, at minimum, prohibit hiring those convicted of violent crimes and individuals required to register as sex offenders and must include hiring recommendations regarding felony convictions. SLED fees for a background search are waived if it is conducted on a substitute teacher on behalf of a school district. SLED is to provide training for school districts on the use of criminal record information. *STATUS: Having passed the General Assembly, [H.4248](#) was ratified on May 6, 2010 (R.198) and signed into law by the Governor on May 11 (Act No. 168).*

S.1137—which makes **REVISIONS TO MONITORING THE SALE OF PRODUCTS CONTAINING EPHEDRINE, PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE**, to the Senate with amendments. This bill regulates nonprescription products whose sole active ingredient is ephedrine, pseudoephedrine or phenylpropanolamine. Among other things, the bill prohibits a retailer from selling to any individual in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine or phenylpropanolamine. During a 30 day period, a retailer may not sell a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine. These same restrictions are placed on individuals for purchase of these items. Before completing a sale of one of these regulated products, the retailer must transmit certain information to a data collection system provided by the National Association of Drug Diversion Investigators. The system must collect this data in real time and may generate a stop sale alert. Retailers must comply with a stop sale alert. The legislation includes certain exemptions from the electronic log requirements. **The legislation also includes provisions pertaining to State Law Enforcement Division's electronic monitoring system** of these regulated products. The bill also changes a statutory reference of ten grains of cocaine to one gram of cocaine. *STATUS: Having passed both Houses, Became law without the signature of the Governor. Bulk of law effective July 1, 2010...SLED Memorandum of Agreement must be effective before January 1, 2011.*

H.3719 — The legislation establishes the **ENDANGERED PERSON NOTIFICATION SYSTEM** within the Missing Person Information Center to provide a statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or some other cognitive impairment. If the center receives a report that involves a missing person who is believed to be suffering from dementia or some other cognitive impairment, for the protection of the person from potential abuse or other physical harm, neglect, or exploitation, the center shall issue a notification, similar to the Amber Alerts currently issued for lost and abducted children, involving media releases and notifications to motorists on digital highway signs. *STATUS: Effective May, 08, 2010*

H.3358 — **REVISIONS PERTAINING TO VULNERABLE ADULT ABUSE AND NEGLECT**, and enrolled the bill for ratification. The legislation revises definitions used in the Omnibus Adult Protection Act. In a nursing home contracted for operation by the Department of Mental Health the bill requires the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division to investigate those fatalities for which there is suspicion that the vulnerable adult died as a result of abuse or neglect, the death is suspicious in nature, or the death is referred by a coroner or medical examiner. The bill authorizes the Department of Health and Environmental Control (DHEC) to enter at all times in or on the property of any facility or service, whether public or private, licensed by the department or unlicensed for the purpose of inspecting and investigating conditions relating to DHEC violations. If entry or inspection is denied, the bill authorizes the department to seek a warrant from a magistrate to enter the property upon a showing of probable cause for the need for entry and inspection. *STATUS: Effective June, 07,2010.*

S.1078 —**CRIMINAL SCREENING REQUIREMENTS FOR NURSING HOME AND COMMUNITY RESIDENTIAL CARE FACILITIES LICENSURE**, to the Senate with amendments. This bill requires an applicant for a license to operate a nursing home or CRCF to undergo a state and national fingerprint-based criminal record check. DHEC may not issue a license if the applicant is required to register as a sex offender or has been convicted of: (a) abuse, neglect, or exploitation of a child or vulnerable adult; (b) a violent crime; (c) any other drug related felony; (d) forgery, embezzlement, or breach of trust with fraudulent intent; or (e) a similar criminal offense committed in another jurisdiction or under federal law. The bill would not prohibit DHEC from issuing a license to operate a nursing home or CRCF when a conviction or plea of guilty or nolo contendere for one of these crimes has been pardoned. However, DHEC will be allowed to consider all that information to determine whether the applicant is unfit for licensure. The cost of obtaining the state and national criminal records checks by SLED and the FBI must be paid by the licensure applicant. The bill also amends the definition of the term, "Direct care entity" to include residential treatment facilities for children and adolescents and hospice programs. *STATUS: Effective June, 07,2010.*



S.1172—COMPREHENSIVE REVISIONS PERTAINING TO DEPARTMENT OF SOCIAL SERVICES (DSS) ABUSE AND NEGLECT PROCEEDINGS AS WELL AS ADOPTION. Highlights of the legislation include the following:

Family Preservation

Pertaining to reasonable efforts made by DSS to preserve or reunify a family, this legislation allows a separate proceeding for this purpose. The court may consider the issue on the motion of a named party, the child's guardian ad litem, or the foster care review board in certain circumstances. Among the list of reasons a court may authorize DSS to terminate or forego reasonable efforts to reunify the family, the bill allows the court to consider (1) actions the parent may have done to another child residing in the parent's home and (2) the fact that the parent has a diagnosable condition unlikely to change within a reasonable time and the condition makes the parent unlikely to provide minimally acceptable care of the child. If the court authorizes or does not authorize DSS to terminate or forego reasonable efforts to preserve or reunify the family, the court must make certain specific findings. Further in making its determination, the court must not consider the availability or lack of adoptive resources as a reason to deny the request to terminate or forego reasonable efforts. When the court allows reunification efforts to terminate, DSS is required to file a petition for termination of parental rights (TPR) within 60 days unless there are compelling reasons why TPR is not in the child's best interests.

Placement Plans

The legislation makes revisions to the placement plan a court must approve if the court orders that a child be removed from the custody of the parent. The first section of the placement plan must set forth changes that must occur in the home and family situation before the child can be returned. This section must also contain a notice to parents that failure to comply within six months may result in TPR. The second section of the plan must include specific actions to be taken by parents and outline what services are to be provided or made available to the parent. The third section of the plan shall set forth the rights and obligations of the parents while the child is in custody. The fourth section of the plan must address matters relating to the placement of the child. Before the court orders the return of a child, the court must find that the changes in the home and family situation have occurred and that the child can be safely returned home.

Permanency Planning Hearings

Under current law, the court is required to review the status of a child placed in foster care upon motion filed by DSS to determine a permanent plan for the child. This bill requires the DSS summons and petition for a permanency planning hearing to include a statement of whether or not the court has authorized the agency to forego or terminate reasonable efforts to reunify the family. This bill provides that extensions for reunification may not be provided beyond 18 months after the child was placed in foster care. The bill outlines when an extension for reunification may be granted.

Adoption

Under this bill, no person or entity other than DSS, a child placing agency licensed in this State, or an attorney licensed in this State may advertise that a person or entity will place or accept a child for adoption. A violation of this provision is a misdemeanor. Also, the family court shall enjoin a person or entity from violating this provision. The legislation includes a definition for the term "advertise".

With regard to adoption of a spouse's child or adoption of a child relative, this bill provides that, upon good cause shown, the court may waive the requirement that the adoption proceeding must be finalized in this State.

STATUS: Having passed the General Assembly, [S.1172](#) was ratified on May 6, 2010 (R.187) and was signed into law by the Governor on May 12 (Act No. 160).

S. 981—GRANDPARENT VISITATION. This legislation provides that the family court has the jurisdiction to order visitation for the grandparent of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats, if the court finds that the child's parents or guardians are depriving the grandparent of the opportunity to visit with the child and: (a) the court finds by clear and convincing evidence that the child's parents or guardians are unfit; or (b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child's best interest. The judge presiding over this matter may award attorney's fees and costs to the prevailing party. It requires that a grandparent to have had a prior parent-child relationship established with the child. *STATUS: Having passed the General Assembly, [S.981](#) was ratified on June 21, 2010 (R.342) and signed into law by the Governor on June 24 (Act No. 267).*

H. 3800—REPORT CERTAIN ALLEGATIONS OF CHILD ABUSE OR NEGLECT. This legislation includes a school attendance officer, foster parent, juvenile justice worker, and a volunteer guardian ad litem among the people who must report certain allegations of abuse or neglect. The bill also encourages other people to report this abuse. *STATUS: Having passed the General Assembly, [H. 3800](#) was ratified on June 1, 2010 (R.273) and became law without the Governor's signature on June 8 (Act No.227).*

H.3536—QUALIFICATIONS OF CORONERS The legislation provides that, in addition to other requirements, a candidate must have at least one of the following qualifications: (a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency; (b) have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency; (c) have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency; (d) be a law enforcement officer, who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience; (e) be a licensed private investigator with a minimum of two years of experience; or (f) have completed a recognized forensic science

degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner. The bill further requires a candidate for coroner to file a sworn affidavit with the county executive committee of the person's political party under specified time frames. The bill provides for the filing of the affidavit by petition candidates, and it delineates the information that the affidavit must contain. The legislation also establishes requirements for a person appointed by a coroner to the position of deputy coroner. *STATUS: Having passed the General Assembly, [H. 3536](#) was ratified on May 25, 2010 (R.238) and vetoed by the Governor on May 28, 2010. The House of Representatives voted to override the veto on June 1 and the Senate voted to override the veto on June 2 to allow the legislation to become law 03/01/11 (Act No. 222).*

H. 4261—ADMINISTRATIVE SUPOENAS. This legislation adds Section 23-3-75 to provide that an officer of the court who is employed by SLED may issue an administrative subpoena to a financial institution, public or private utility, or communications provider for the production of records during the investigation of certain criminal cases that involve financial crimes. *STATUS: Signed by the Governor effective June 24, 2010. Special thanks to Representative Jim Harrison for this addition to this arrow in the quiver of law enforcement.*

H 4225 —DEFINITION OF VSP . This Legislation amends Section 16-3-1400 to clarify that the term "Victim Service Provider" does not include judges. STATUS: Having passed the General Assembly, the Bill awaits ratification at the time of this publication.

THERE WERE MANY WORTHY CRIME VICTIM BILLS INTRODUCED THAT **DID NOT PASS** THIS YEAR. HOPEFULLY THEY WILL BE RE-INTRODUCED IN JANUARY 2011. SOME OF THEM ARE:

S.790—Introduced by Senator Larry Martin TO AMEND CHAPTER 3, TITLE 16 OF THE 1976 CODE, BY ADDING ARTICLE 19 TO ESTABLISH A PROCEDURE FOR THE ISSUANCE OF TEMPORARY AND PERMANENT CIVIL NO-CONTACT ORDERS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE DURATION OF CIVIL NO-CONTACT ORDERS, TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE A PENALTY FOR THE VIOLATION OF CIVIL NO-CONTACT ORDERS, TO PROVIDE FOR THE ENFORCEMENT OF FOREIGN PROTECTION ORDERS, AND TO PROVIDE FOR THE REQUIREMENTS FOR VALID FOREIGN PROTECTION ORDERS.

S. 248—Introduced by S. Larry Martin TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [61-4-95](#) SO AS TO CREATE THE OFFENSE OF UNLAWFULLY PROVIDING BEER OR WINE TO A PERSON UNDER THE AGE OF TWENTY-ONE WHEN GREAT BODILY INJURY OR DEATH RESULTS TO THE PERSON UNDER THE AGE OF TWENTY-ONE OR TO ANOTHER PERSON AND TO PROVIDE PENALTIES; AND BY ADDING SECTION [61-6-4083](#) SO AS TO CREATE THE OFFENSE OF UNLAWFULLY PROVIDING ALCOHOLIC LIQUORS TO A PERSON UNDER THE AGE OF TWENTY-ONE WHEN GREAT BODILY INJURY OR DEATH RESULTS TO THE PERSON UNDER THE AGE OF TWENTY-ONE OR TO ANOTHER PERSON AND TO PROVIDE PENALTIES

S.112—Introduced by Senator Gerald Malloy TO AMEND 1976 CODE OF LAWS OF SOUTH CAROLINA BY ADDING SECTION [16-13-480](#) TO CREATE THE CRIME OF ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT IN THIS STATE, TO PROVIDE THAT A VIOLATION IS A FELONY, AND TO PROVIDE FOR A MANDATORY MINIMUM PENALTY; AND TO REPEAL CHAPTER 39 OF TITLE 34 RELATING TO THE SOUTH CAROLINA DEFERRED PRESENTMENT SERVICES ACT.

S. 153—Introduced by Senator Chip Campsen TO AMEND THE 1976 CODE TO ENACT THE "HOME INVASION PROTECTION ACT", BY ADDING SECTION [16-11-395](#) TO ESTABLISH THE OFFENSES OF HOME INVASION IN THE FIRST, SECOND, AND THIRD DEGREES, AND TO PROVIDE GRADUATED PENALTIES; TO AMEND SECTION [16-1-60](#), RELATING TO VIOLENT OFFENSES, TO INCLUDE HOME INVASION, FIRST AND SECOND DEGREE; AND TO AMEND SECTION [16-3-20](#), RELATING TO THE PUNISHMENT FOR MURDER, TO INCLUDE AS A SEPARATE STATUTORY AGGRAVATING CIRCUMSTANCE WHICH MAY BE CONSIDERED IN THE DETERMINATION OF WHETHER THE DEATH PENALTY SHOULD BE IMPOSED, A MURDER COMMITTED WHILE IN THE COMMISSION OF THE OFFENSE OF HOME INVASION IN THE FIRST DEGREE.

S.190—Introduced by Senator Glenn McConnell TO AMEND ARTICLE 5, CHAPTER 23, TITLE 16, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO OFFENSES INVOLVING WEAPONS, BY ADDING SECTION [16-23-425](#) SO AS TO CREATE THE CRIME OF POSSESSION OF FIREARMS OR AMMUNITION BY A PERSON WHO HAS BEEN CONVICTED OF A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR, TO PROVIDE THAT A VIOLATION IS A FELONY, TO PROVIDE FOR A PENALTY OF NOT MORE THAN TWO THOUSAND DOLLARS OR IMPRISONMENT OF NOT MORE THAN FIVE YEARS, OR BOTH, AND TO PROVIDE FOR THE DISPOSITION OF THE FIREARMS OR AMMUNITION.

S. 192—Introduced by Senator McConnell TO AMEND SECTION [56-1-440](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO PENALTIES FOR DRIVING WITHOUT A LICENSE, SO AS TO PROVIDE THAT A PERSON WHO DRIVES A MOTOR VEHICLE WITHOUT A LICENSE, AND WHEN DRIVING CAUSES GREAT BODILY INJURY OR DEATH TO ANOTHER PERSON IS GUILTY OF A FELONY AND TO PROVIDE PENALTIES; AND TO AMEND SECTION [56-1-460](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO PENALTIES FOR DRIVING WHILE A LICENSE IS CANCELLED, SUSPENDED OR REVOKED, SO AS TO PROVIDE THAT A PERSON WHO DRIVES A MOTOR VEHICLE WHEN HIS LICENSE IS CANCELED, SUSPENDED, OR REVOKED, AND WHEN DRIVING CAUSES GREAT BODILY INJURY OR DEATH TO ANOTHER PERSON IS GUILTY OF A FELONY AND TO PROVIDE PENALTIES.

S. 248—Introduced by Senator Larry Martin TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [61-4-95](#) SO AS TO CREATE THE OFFENSE OF UNLAWFULLY PROVIDING BEER OR WINE TO A PERSON UNDER THE AGE OF TWENTY-ONE WHEN GREAT BODILY INJURY OR DEATH RESULTS TO THE PERSON UNDER THE AGE OF TWENTY-ONE OR TO ANOTHER PERSON AND TO PROVIDE PENALTIES; AND BY ADDING SECTION [61-6-4083](#) SO AS TO CREATE THE OFFENSE OF UNLAW-

FULLY PROVIDING ALCOHOLIC LIQUORS TO A PERSON UNDER THE AGE OF TWENTY-ONE WHEN GREAT BODILY INJURY OR DEATH RESULTS TO THE PERSON UNDER THE AGE OF TWENTY-ONE OR TO ANOTHER PERSON AND TO PROVIDE PENALTIES.

S.282—Introduced by Senator McConnell TO AMEND SECTION [22-5-110](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO MAGISTRATES' POWERS AND DUTIES REGARDING THE ISSUANCE OF ARREST WARRANTS AND COURTESY SUMMONS, SO AS TO PROVIDE THAT NO ARREST WARRANT SHALL BE ISSUED FOR THE ARREST OF A PERSON UNLESS SOUGHT BY A MEMBER OF A LAW ENFORCEMENT AGENCY ACTING IN THEIR OFFICIAL CAPACITY; AND TO PROVIDE THAT IF AN ARREST WARRANT IS SOUGHT BY SOMEONE OTHER THAN A LAW ENFORCEMENT OFFICER, THE COURT MUST ISSUE A COURTESY SUMMONS, EXCEPT WHEN A BUSINESS IS SEEKING AN ARREST WARRANT FOR ANY OFFENSE AGAINST THE BUSINESS OR A PERSON IS SEEKING AN ARREST WARRANT FOR A FRAUDULENT CHECK, IF THE FRAUDULENT CHECK IS PRESENTED TO THE MAGISTRATE AT THE TIME THE WARRANT IS SOUGHT. ***THIS BILL ALSO TO EXCLUDE CDV AND HARRASSMENT OFFENDERS FROM COURTESY SUMMONS.***

S.436—Introduced by Senator Bright TO AMEND SECTION [16-15-110](#) OF THE 1976 CODE, RELATING TO PENALTIES FOR A VIOLATION OF SECTION [16-15-90](#) OR SECTION [16-15-100](#), BOTH RELATING TO PROSTITUTION, TO PROVIDE THAT CERTAIN REAL AND PERSONAL PROPERTY MAY BE FORFEITED FOR VIOLATIONS OF SECTION [16-15-90](#) AND SECTION [16-15-100](#), AND TO PROVIDE FOR FORFEITURE PROCEDURES, DISPOSITION OF FORFEITED ITEMS, AND THE DISPOSITION OF PROCEEDS OF SALES.

S.553—Introduced by Senator Brad Hutto TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 13, TITLE 63 SO AS TO PROVIDE FOR THE LICENSURE AND REGULATION OF SUMMER CAMPS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO DEFINE SUMMER CAMPS AS RESIDENT CAMPS AND DAY CAMPS; TO PROHIBIT PERSONS WHO ARE LISTED AS A PERPETRATOR IN THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, WHO ARE REQUIRED TO REGISTER UNDER THE SEX OFFENDER REGISTRY, OR WHO HAVE BEEN CONVICTED OF CERTAIN CRIMES TO BE LICENSED TO OPERATE A SUMMER CAMP OR TO BE EMPLOYED BY A SUMMER CAMP AND TO PROVIDE THAT IS A CRIMINAL OFFENSE FOR A PERSON WHO HAS BEEN CONVICTED OF SUCH A CRIME TO APPLY FOR SUCH A LICENSE OR EMPLOYMENT; TO REQUIRE STATE AND FEDERAL FINGERPRINT REVIEWS AS A PREREQUISITE TO LICENSURE AND EMPLOYMENT; TO PROVIDE FOR THE ISSUANCE OF PROVISIONAL LICENSES WHEN THE APPLICANT MEETS CERTAIN PRELIMINARY REQUIREMENTS; TO REQUIRE THE DEPARTMENT TO CONDUCT AN INVESTIGATION OF A SUMMER CAMP APPLICANT FOR LICENSURE; TO REQUIRE A SUMMER CAMP TO HAVE A PERSON ON SITE WHO IS CERTIFIED IN FIRST AID AND IN CHILD-INFANT CARDIOPULMONARY RESUSCITATION; TO REQUIRE A SUMMER CAMP TO NOTIFY THE DEPARTMENT WHEN A CHILD DIES AT THE SUMMER CAMP; TO REQUIRE THE DEPARTMENT TO ESTABLISH PROCEDURES FOR RECEIVING COMPLAINTS; TO AUTHORIZE THE DEPARTMENT TO CONDUCT INVESTIGATIONS AND INSPECTIONS OF SUMMER DAY CAMPS; TO PROVIDE PROCEDURES FOR ISSUING CORRECTION NOTICES FOR DEFICIENCIES, FOR OBTAINING INJUNCTIONS, AND FOR APPEALS OF DEPARTMENT DECISIONS; TO PROHIBIT A PERSON SEEKING EMPLOYMENT IN THE DEPARTMENT'S SUMMER CAMP LICENSING PROGRAM FROM HAVING BEEN CONVICTED OF CERTAIN CRIMES AND TO PROVIDE THAT IT IS A CRIMINAL OFFENSE FOR A PERSON WHO HAS BEEN CONVICTED OF SUCH AN OFFENSE TO SEEK EMPLOYMENT; AND TO AMEND SECTION [63-13-20](#), RELATING TO DEFINITIONS IN THE LICENSURE AND REGULATION OF CHILDCARE FACILITIES, SO AS TO REVISE THE EXEMPTIONS FROM CHILDCARE LICENSURE FOR SCHOOL CAMPS AND SUMMER RESIDENT CAMPS.

S. 554—Introduced by Senator Brad Hutto TO AMEND SECTION [63-11-1950](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURPOSE AND DUTIES OF THE STATE CHILD FATALITY COMMITTEE, SO AS TO PROVIDE THAT THE COMMITTEE MAY REQUEST THE DEPARTMENT OF SOCIAL SERVICES TO OPEN A CASE ON THE FAMILY WHERE THE FATALITY OCCURRED IF THE COMMITTEE SUSPECTS CRIMINAL DOMESTIC VIOLENCE, DRUG ABUSE, ABUSE, OR NEGLECT IN THE HOME AND CHILDREN CONTINUE TO LIVE IN THE HOME.

S. 969—Introduced by Senator Bryant TO AMEND SECTION [16-3-1750](#) OF THE 1976 CODE, RELATING TO THE DURATION OF A RESTRAINING ORDER AGAINST A PERSON ENGAGED IN HARASSMENT OR STALKING, TO PROVIDE THAT THE ORDER MAY NOT BE LIFTED WITHOUT THE CONSENT OF THE VICTIM; TO AMEND SECTION [16-3-1780](#), RELATING TO THE MODIFICATION OF RESTRAINING ORDERS, TO PROVIDE THAT THE COURT MAY NOT TERMINATE THE FIXED PERIOD OR TERMINATE A RESTRAINING ORDER WITHOUT THE PRIOR CONSENT OF THE PLAINTIFF; TO AMEND SECTION [16-25-120](#), RELATING TO THE ISSUANCE OF A RESTRAINING ORDER, TO PROVIDE THAT THE COURT MAY NOT SHORTEN THE FIXED PERIOD OR TERMINATE A RESTRAINING ORDER OR PROTECTIVE ORDER WITHOUT PRIOR CONSENT OF THE VICTIM; AND TO AMEND SECTION [20-4-70](#), RELATING TO THE DURATION OF THE TERM OF A PROTECTIVE ORDER AND THE MODIFICATION OF ITS TERMS, TO PROVIDE THAT EITHER PARTY MAY EXTEND THE LENGTH OF AN ORDER, AND TO PROVIDE THAT THE LENGTH OF THE ORDER MAY NOT BE SHORTENED OR TERMINATED WITHOUT THE CONSENT OF THE PETITIONER.

S. 1249—Introduced by Senator Larry Martin TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [14-1-240](#) SO AS TO IMPOSE A SURCHARGE ON CASES INVOLVING CRIMINAL DOMESTIC VIOLENCE OFFENSES IN A COURT IN THIS STATE, TO PROVIDE FOR THE USE OF THE REVENUE COLLECTED FROM THIS SURCHARGE, TO EXPRESS THE INTENTION THAT THIS REVENUE NOT BE USED TO SUPPLANT EXISTING FUNDING FOR CERTAIN SERVICES RELATED TO THE CRIMINAL DOMESTIC VIOLENCE PROSECUTION, AND TO ENABLE THE STATE AUDITOR TO EXAMINE CERTAIN RELATED FINANCIAL RECORDS AT THE REQUEST OF THE STATE TREASURER.

S. 1313—Introduced by Senator McConnell TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION [17-15-110](#), SO AS TO PROVIDE THAT IF A PERSON IS CONVICTED OF COMMITTING OR ATTEMPTING TO COMMIT A GENERAL SESSIONS OFFENSE WHILE ON A BAIL BOND OR PERSONAL RECOGNIZANCE BOND, THE PERSON MUST BE IMPRISONED FOR FIVE YEARS IN ADDITION TO THE PUNISHMENT PROVIDED FOR THE PRINCIPAL OFFENSE.

H.3117 —Introduced by Rep. Gilda Cobb-Hunter TO AMEND SECTION [20-4-60](#), AS AMENDED, CODE OF LAWS OF SOUTH

CAROLINA, 1976, RELATING TO AN ORDER FOR PROTECTION FROM DOMESTIC ABUSE, SO AS TO PROVIDE THAT THE COURT MAY PROHIBIT HARM OR HARASSMENT TO A PET ANIMAL OWNED, POSSESSED, KEPT, OR HELD BY THE PETITIONER AND TO PROVIDE THAT IN ORDERING TEMPORARY POSSESSION OF PERSONAL PROPERTY, THE COURT MAY ORDER THE TEMPORARY POSSESSION OF PET ANIMALS.

H.3230 — Introduced by Rep. Ted Pitts TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [59-25-425](#) SO AS TO REQUIRE PERSONS WHO HIRE SCHOOL DISTRICT EMPLOYEES TO REVIEW THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT AND TO AUTHORIZE THE DEPARTMENT OF SOCIAL SERVICES (DSS) TO CHARGE A FEE FOR THE REVIEW; BY ADDING SECTION [63-7-1985](#) SO AS TO REQUIRE CERTAIN ENTITIES ENGAGED IN THE CARE OF CHILDREN TO REVIEW THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT BEFORE HIRING A POTENTIAL EMPLOYEE AND TO AUTHORIZE DSS TO CHARGE A FEE FOR THE REVIEW; TO AMEND SECTION [63-7-940](#), RELATING TO THE USE OF UNFOUNDED CASE INFORMATION CONCERNING REPORTS AND INVESTIGATIONS OF CHILD ABUSE AND NEGLECT, SO AS TO PROVIDE THAT INFORMATION CONCERNING REPORTS OF CHILD ABUSE AND NEGLECT CLASSIFIED AS UNFOUNDED MUST BE MAINTAINED BY DSS FOR TEN YEARS AND TO INCLUDE THE STATE LAW ENFORCEMENT DIVISION IN THE LIST OF AGENCIES WITH RESTRICTED ACCESS TO THE INFORMATION; TO AMEND SECTION [63-7-980](#), RELATING TO COOPERATION BETWEEN DSS AND LAW ENFORCEMENT, SO AS TO REQUIRE COOPERATION BETWEEN DSS AND LAW ENFORCEMENT WHETHER OR NOT A REPORT OF SUSPECTED CHILD ABUSE OR NEGLECT APPEARS TO INDICATE A VIOLATION OF CRIMINAL LAW AND TO REQUIRE THE AGENCIES TO ESTABLISH PROCEDURES FOR COLLABORATION; TO AMEND SECTION [63-7-1930](#), RELATING TO THE PETITION FOR PLACEMENT ON THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, SO AS TO DELETE THE REQUIREMENT THAT THE DEPARTMENT MUST SEEK AN ORDER TO PLACE A PERSON ON THE CENTRAL REGISTRY WHEN A PREPONDERANCE OF THE EVIDENCE SUGGESTS THE PERSON COMMITTED SEXUAL ABUSE; TO AMEND SECTION [63-7-1950](#), RELATING TO UPDATING OF THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, SO AS TO DELETE THE REQUIREMENT THAT DSS REMOVE REPORTS OF UNFOUNDED REPORTS FROM THE CENTRAL REGISTRY; TO AMEND SECTION [63-7-1990](#), RELATING TO THE CONFIDENTIALITY AND RELEASE OF RECORDS AND INFORMATION RELATING TO THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, SO AS TO ALLOW JUVENILE ARBITRATORS ACCESS TO THIS INFORMATION; TO AMEND SECTION [63-7-1440](#), RELATING TO JUDICIAL REVIEW OF CASES OF INDICATED CHILD ABUSE AND NEGLECT, SO AS TO CHANGE THE STANDARD OF REVIEW OF THE FAMILY COURT TO A TRIAL DE NOVO; AND TO REPEAL SECTION [63-5-70](#) RELATING TO UNLAWFUL CONDUCT TOWARDS A CHILD.

H.3310—Introduced by Rep. Brady TO AMEND SECTION [16-25-10](#), AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "HOUSEHOLD MEMBER" IN CONNECTION WITH CRIMINAL DOMESTIC VIOLENCE OFFENSES, SO AS TO INCLUDE PERSONS IN A DATING RELATIONSHIP AND TO DEFINE "DATING RELATIONSHIP"; TO AMEND SECTION [20-4-20](#), AS AMENDED, RELATING TO DEFINITIONS IN THE "PROTECTION FROM DOMESTIC ABUSE ACT", SO AS TO REVISE THE DEFINITION OF "HOUSEHOLD MEMBER" TO INCLUDE PERSONS IN A DATING RELATIONSHIP AND TO DEFINE "DATING RELATIONSHIP"; TO AMEND SECTION [20-4-40](#), AS AMENDED, RELATING TO THE PETITION FOR AN ORDER OF PROTECTION, SO AS TO PROVIDE THAT A PARENT OR GUARDIAN MAY PETITION THE COURT FOR AN ORDER ON BEHALF OF A MINOR WHO IS IN A DATING RELATIONSHIP; AND TO AMEND SECTION [20-4-60](#), AS AMENDED, RELATING TO THE CONTENTS OF AN ORDER OF PROTECTION, SO AS TO AUTHORIZE A RESPONDENT IN A PROCEEDING TO COMPLETE A BATTERER TREATMENT PROGRAM AND TO ORDER OTHER PROHIBITIONS OR REQUIREMENTS NECESSARY TO PROTECT THE ABUSED PERSON.

H.3431—Introduced by Rep Jim Harrison TO AMEND SECTION [16-15-375](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO CERTAIN CHILD EXPLOITATION OFFENSES, SO AS TO DEFINE THE TERM "SEXUALLY EXPLICIT CONDUCT"; TO AMEND SECTION [16-15-395](#), AS AMENDED, RELATING TO FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCREASE THE PENALTY FOR THE OFFENSE AND REFERENCE THE NEW TERM; TO AMEND SECTION [16-15-405](#), AS AMENDED, RELATING TO SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE DISTRIBUTING MATERIAL CONTAINING A MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE PURVIEW OF THE OFFENSE AND TO REFERENCE THE NEW TERM; AND TO AMEND SECTION [16-15-410](#), AS AMENDED, RELATING TO THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO REFERENCE THE NEW TERM.

H.3543—Introduced by Rep. Joan Brady TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [59-1-490](#) SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO DEVELOP A MODEL DATING VIOLENCE POLICY TO ASSIST SCHOOL DISTRICTS IN DEVELOPING THEIR OWN POLICIES FOR REPORTING AND RESPONDING TO DATING VIOLENCE, TO PROVIDE WHAT MUST BE INCLUDED IN THE POLICIES, TO PROVIDE REPORTING AND PUBLICATION REQUIREMENTS, AND TO REQUIRE SCHOOL DISTRICTS TO INFORM PARENTS AND GUARDIANS OF THE POLICY AND TO PROVIDE PARENTS WITH A COPY OF THE POLICY UPON REQUEST.

H.3641—Introduced by Rep Gilda Cobb-Hunter TO AMEND SECTION [16-25-70](#), AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LAW ENFORCEMENT'S AUTHORITY AND RESPONSIBILITIES WITH REGARD TO ARRESTS IN AND INVESTIGATIONS OF CRIMINAL DOMESTIC VIOLENCE, SO AS TO REQUIRE THE INVESTIGATING AGENCY TO DOCUMENT THE INVESTIGATION AND TO MAINTAIN THE INVESTIGATION REPORT.

H. 3642—Introduced by Rep Gilda Cobb-Hunter TO AMEND SECTION [16-25-20](#), AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL DOMESTIC VIOLENCE OFFENSES, PENALTIES, AND PROSECUTION, SO AS TO PROVIDE THAT A JUDGE MAY PROCEED WITH THE PROSECUTION OF A CASE IF THE VICTIM IS NOT PRESENT AND TO PROVIDE THAT BEFORE DISMISSING A CASE, THE JUDGE SHALL MAKE WRITTEN FINDINGS AS TO WHETHER THE PROSECUTING OFFICIAL IS PREPARED TO PROSECUTE THE CASE AND THE TYPE OF EVIDENCE THAT WILL BE PRESENTED.

H. 3643—Introduced by Rep Gilda Cobb-Hunter TO AMEND THE CODE OF SOUTH CAROLINA,



**Rep. Gilda
Cobb-Hunter**

OF 1976, BY ADDING SECTION [16-3-1030](#) SO AS TO ESTABLISH THE CRIMINAL FELONY OFFENSE OF STRANGULATION AND THE CRIMINAL FELONY OFFENSE OF SMOTHERING AND TO PROVIDE PENALTIES; TO AMEND SECTION [16-25-65](#), AS AMENDED, RELATING TO THE OFFENSE OF CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO PROVIDE THAT STRANGULATION AND SMOTHERING DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE AND TO DEFINE SERIOUS BODILY INJURY AND PETECHIA.

H.3672— Introduced by Rep. Gilda Cobb-Hunter TO AMEND SECTION [17-21-80](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHANGE OF VENUE IN CRIMINAL PROCEEDINGS, SO AS TO PROVIDE THAT IF A PERSON CHARGED WITH A CRIMINAL OFFENSE IS A LAW ENFORCEMENT OFFICER, MAGISTRATE, OR CIRCUIT JUDGE, IT IS REBUTTABLY PRESUMED THAT A FAIR AND IMPARTIAL TRIAL CANNOT BE OBTAINED IN THE COUNTY IN WHICH THE DEFENDANT SERVED AND THAT THE VENUE IN SUCH A CASE MUST BE CHANGED TO ANOTHER COUNTY.

H.4198—Introduced by Reps. Erickson and Brady TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [38-57-115](#) SO AS TO PROVIDE THAT IT IS UNFAIR DISCRIMINATION FOR AN INSURER TO DENY, REFUSE TO ISSUE OR RENEW, CANCEL, RESTRICT OR EXCLUDE COVERAGE, DENY A CLAIM OR LIMIT PAYMENTS, OR ADD A PREMIUM DIFFERENTIAL TO A POLICY OR CERTIFICATE OF COVERAGE ON THE BASIS THAT AN APPLICANT OR INSURED HAS BEEN OR IS PERCEIVED TO HAVE BEEN ABUSED OR MAY BE A SUBJECT OF ABUSE AND TO PROVIDE PENALTIES, INCLUDING FINES UP TO TWO HUNDRED THOUSAND DOLLARS.

H. 4504—Introduced by Rep Joan Brady TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION [63-19-2470](#) SO AS TO CREATE THE OFFENSE OF SEXTING, PROVIDE A FINE AND AN EDUCATIONAL PROGRAM FOR A PERSON WHO COMMITS THE OFFENSE, AND PROVIDE FOR EXPUNGEMENT OF THE PERSON'S RECORD UPON COMPLETION OF AN EDUCATIONAL PROGRAM AND PAYMENT OF A FINE.

The above report is by no means a complete synopsis of those issues of interest to crime victims, but an attempt to inform our readers of most of those issues. Any questions about the contents of this report may be directed to Laura Hudson at LAURAHUDSON@SCCVC.org.

2010 SCCVC PUBLIC POLICY COMMITTEES

The South Carolina Crime Victims' Council maintains Four Public Policy Committees in which any victim/survivor, allied professional; crime victim service provider or any interested citizen may participate by contacting the following:

Laura Hudson: General Law Issues / (803) 413-5040 LauraHudson@sccvc.org

Margaret Frierson: Children's Law Issues / (803) 254-2326 mfrierson@ncmec.org

Bill Mathias: Juvenile Crime Issues / (803) 957-5829 bill25@sc.rr.com



Vickie Bourus: Family Violence & Sexual Assault Issues / (803) 256- 2900 vkbourus@sccsdvasa.org

All committees meet at the call of the chairpersons, usually at the SCCVC offices located at 1900 Broad River Road, Columbia, SC 29210-7047. If you do not wish to join a committee, but would like to express an opinion or a public policy change, please feel free to contact the above chairpersons. If you would like to be included in any communication from SCCVC concerning legislative/ public policy actions please submit your name and contact information to one of the above individuals and you will be added to our contact list.

"Cannibals... animals that feed on others of their own kind..."

The past few years have revealed an underbelly of cannibalism in crime victim services. It seems to be coming from the notion that "my program for crime victims is more important than yours, and therefore, I deserve to take your money!"

This has manifested itself in the General Assembly in various ways; one being the SC prosecutors in creating special diversion programs, like the traffic diversion program, for which they charge fees going directly to themselves: thus, sloughing off the fines from convictions that they would only share in with law enforcement, the courts, and jails. Most of the monies for county/municipal crime victim programs (LEVAs, Jails, Courts) are generated from traffic tickets.

This past session, the Department of Corrections, the Association of Counties and the Sheriff's Association successfully conspired to take funds from the Department of Public Safety's State Victim Assistance Program (SVAP) and the State Office of Victim Assistance (SOVA) to continue the automated notification system (SAVINE) used by the DOC and some 31 other law enforcement based programs around the state to electronically notify crime victims. The Federal grant that funded SAVINE ran out as do most Federal Grants to state agencies, in three years

Neither DPS or SOVA were consulted or informed of the change in the formulas from prison industries...blind-sided in the last days of the session in Section 4 of Senate 217...sponsored by Senator Mike Fair of Greenville (see pages 9-10)... so much for transparency in government.

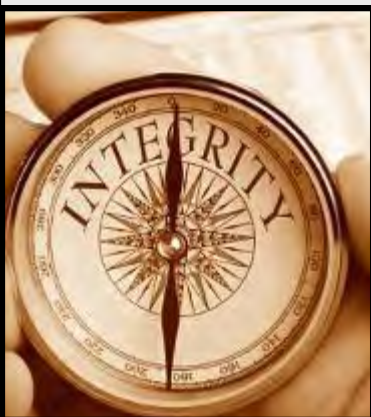
The State Victim Assistance Program (SVAP) grant cycle normally runs from July 1, 2009-September 30, 2010. DPS has the program on a fifteen month cycle this year and were using the SVAP funding to match the VAWA requirement from the Feds. Sub-grantees will now have to come up with more \$ match for their VAWA grants which they are currently not required to do to make up for the short fall. This is the second raid by the Department of Corrections on Prison Industries and inmate work programs.

DPS used to get **20%** of those inmate wage garnishments, but several years ago, Corrections was allowed to retain **10%**, and DPS got the other half. So, **DOC has been steadily eroding the funds for crime victims.** SVAP used to get \$1,000,000.00, then \$500,000.00—\$600,000.00, now at **5%**, the program is cut to a mere \$300,000.00. DPS will not be able to keep those programs afloat during FY12 (October 1, 2011-September 30, 2012) funding cycle. Such policies are destroying much needed crime victim programs.

It is my understanding that the Crime Victim Coordinating Council (created by the Governor in the Governor's Office) that supposedly governs crime victims services throughout the state was not informed of and did not vote on the reformulation of funds and has expressed disappointment and outrage at their chairwoman, Ms. Barbara Grissom of DOC and council member Jeff Moore, Director & lobbyist for the Sheriff's Association for their role in the actions of re-appropriating crime victim money on their own initiative to benefit their own programs. It is very interesting that the Governor ignores the "counsel" of the very Council he so laboriously created.

The programs devastated by this clandestine thievery are predominately non-profit services that deliver direct services to crime victims: sexual assault programs, criminal domestic violence programs, children services, etc. These programs at DPS will not receive continuances and crime victims will suffer.

The blow to SOVA is equally devastating. These much needed funds will be cut by \$400,000- \$500,000 annually. These funds have been used in the past for training, salaries, and direct compensation for crime victims who are entitled by law to be compensated for lost wages, burial expenses, medical and psychological counseling services and sexual assault exams.



The reckless disregard for jobs and services to real people is so self serving when the real solution is to work together to increase the pie for all crime victim services, not **steal from one another's individual slices.**

Beware! As the economy continues to weaken and agencies try to maintain programs, there will undoubtedly be more big strong fish trying to gobble up the small, weaker fish..

DUMB CRIMINAL

ST. JOHNS CO., Fla. (CNN/WJXT) - Authorities in Florida arrested a 57-year-old man after he called 911 in hopes of hitching a ride to the liquor store. Police say George McMurrain actually called officers twice Saturday night to ask for a ride to buy alcohol.

Here is a transcription of his call:

Dispatcher: "This is 911."

Suspect: "I need a, I need a -- a ride."

Dispatcher: "You need a ride?"

Suspect: "Yes, to the liquor store."

Dispatcher: "Um."

Suspect: "Sheriff said she'd give me a ride."

Dispatcher: "OK, you're going to have to call somebody else, sir. You called 911. We can't come give you a ride."

Suspect: "Even the sheriff said she'd give me a ride."

Dispatcher: "The sheriff said they'd give you a ride to the liquor store?"

Suspect: "That's correct."

Dispatcher: "Wrong."

Officers picked up McMurrain at a local hotel and carted him off to jail. He's charged with misusing 911.



MADD NATIONAL

MADD NATIONAL invited **Laura Hudson** to be a presenter at the annual Public Policy Training for MADD volunteers in Columbus Ohio at the Nationwide Insurance Headquarters. It was fun seeing other individuals who are working hard to save lives in other parts of the county through public policy changes.



Laura Dean-Mooney

MADD National President expresses her thoughts at the conference



MADD Public Policy Guru, **Nick Ellinger, left**, sits in a round table discussion with state MADD mamas discussing Ignition Interlock legislation. The life-saving Interlock technology was the hot topic at the Columbus, Ohio meeting. MADD would like to have all new cars being manufactured to be equipped with the new devices.



Representative Ted Pitts of Lexington who left his office mid-term to serve in Iraq listens, along with Rep. Nicki Haley, also from Lexington, to a fellow Representative at the State House. Rep. Haley is the Republican Nominee for Governor this November running against Senator Vince Sheheen of Kershaw.

The photo below depicts the signing, by **Governor Sanford**, of S.1154: the Sentencing Reform Bill. Looking on from left to right is Lilly Linderman (grandmother of crime victim), Rep Doug Jennings (who is retiring from the House), A representative of the Pew Foundation, Rep. Keith Kelly (who was defeated in the last election), Senator Gerald Malloy, the chairman of the Commission & Senator Jake Knotts of Lexington. *See pages 13-17 for outline of legislation*





SCVAN Staffers **Shannon Geary** (with new addition Sophia) & **Nicole Goodwin** (near right) search for registrants and seminar topics at the SC Victims Rights Week celebration in Greenville at the Embassy Suites Golf & Conference Center. Attendance was good and training opportunities were available + good fellowship and the Candlelight Vigil



Laura Hudson, Executive Director of the SC Crime Victims; Council conducts a seminar on some of the Public Policy changes that were in the pipeline at the General Assembly in April at the VRW event in Greenville

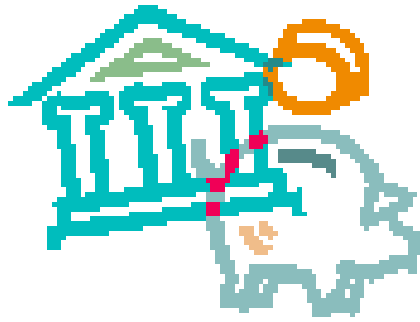


Members of the Coordinating Council in the Governor's Office enjoy a good laugh: From left to right, Burke Fitzpatrick of the Grants Division of DPS, & Ethel Ford of SOVA . The Council meets on a regular schedule to discuss state-wide crime victim services.

All meetings are open to the public. For the schedule access their web site at:

<http://www.govoepp.state.sc.us/sova/>

South Carolina Court Upholds \$10 Million Award Against Bar, Owners



July 29, 2010

South Carolina liquor stores, bars and their owners may be liable for injuries caused by a patron they "knew or should have known" was intoxicated even if the customer does not appear drunk.

The South Carolina Supreme Court has affirmed a \$10 million jury award against a bar and its owners personally for selling alcohol to an intoxicated man who later crashed and injured John Hartfield and his father.

The state's high court agreed that sellers of alcohol are liable if they knowingly sell alcohol to a patron who they "knew or should have known" was intoxicated and that the customer does not have to be visibly drunk.

The defendants, owners of The Getaway Bar & Grille, one of the bars where Hoyt Helton was a regular, tried to argue that this standard was lower than the reasonable or prudent person language used in previous decisions that turned on whether the bartenders negligently served alcoholic beverages to a person who, by his appearance or otherwise, "would lead a prudent man to believe that person was intoxicated."

But Chief Justice Jean Hofer Toal, writing for the majority in a case appealed from a circuit court, said this was not a lower standard. "In our view, 'knew or should have known' is an articulation of an objective 'reasonable person' standard. We see no difference between the 'reasonable person' and 'should have known' standards," Toal wrote in *Hartfield v. the Getaway Lounge*.

The court said that the state's law does not require that the intoxicated person be visibly intoxicated, only that a person "knowingly" sells beer or wine to an intoxicated person. Though the Helton case focused on the visible symptoms, other cases under the law "might concern knowledge acquired through a different medium," according to the court.

The Supreme Court also upheld the lower court's decision to allow the crash victims to pierce the corporate shield of the bar, thereby exposing the individual owners to liability for the injuries. The court noted that one of the requirements for piercing corporate veils is that there be an "element of injustice or fundamental unfairness" if the acts of the corporation be not regarded as the acts of the individuals. "The essence of the fairness test is simply that an individual businessman cannot be allowed to hide from the normal consequences of carefree entrepreneuring by doing so through a corporate shell," the court held, citing previous court rulings on the topic.

After visiting a number of bars one night in July 2003, Hoyt Helton drove his vehicle across the center line and struck a car in which John Erik Hartfield was a passenger. Helton died at the scene and a state toxicologist recorded his blood alcohol content (BAC) at .212. Hartfield, who suffered serious injuries, and his father filed suit against three bars Helton visited that evening. They were awarded a \$10 million verdict against The Getaway Lounge & Grill.

Three justices joined in the majority opinion. Justice Costa M. Pleicones dissented, arguing that the plaintiffs' case was based, not on evidence, but on speculation.



Judge Mel Maurer & Judge Womble, magistrates from Richland County, plan the training in Myrtle Beach



Terry Leverette, Court Administration, oversees the computer power point presentations for the Magistrates' Training sessions

**Magistrates, Court Notifiers
receive training on
Crime Victim Issues: Restitution, Notification, Rights**



Jason Buffkin, crime victim rights attorney with the **Crime Victim Legal Network** lectures on the finer points of crime victim legislation and rights



Sandi Wofford, Chief Victim Advocate for the Attorney General's Office brings training to the Magistrates Conference on the AG's role in Victim Services

South Carolina Crime Victims' Council

Fund Raiser February 15, 2010

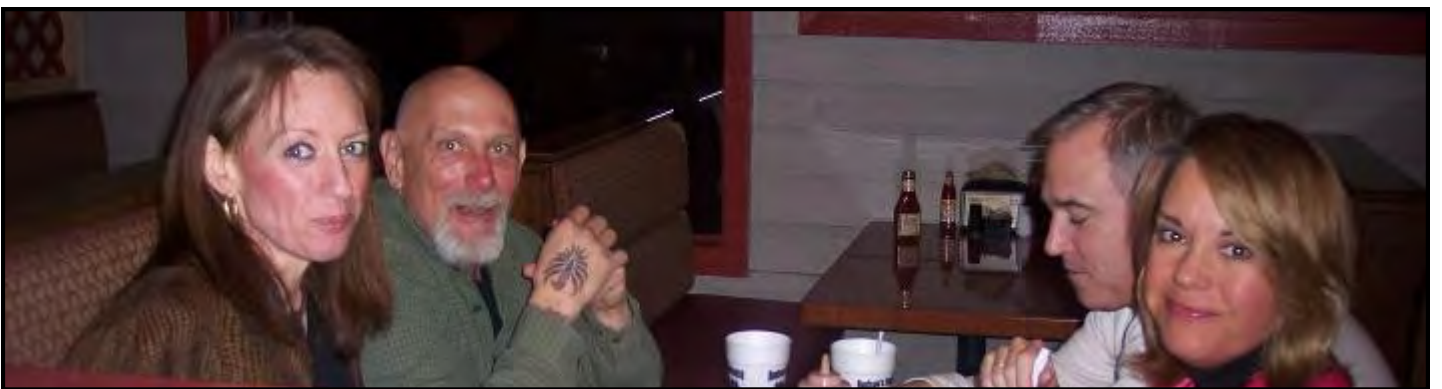
SCCVC held a very successful fund raiser to obtain funds for the Memorial Garden in downtown Columbia. The key note speaker was the Honorable Henry McMaster, Attorney General of South Carolina.

The theme: "Hearts for Crime Victims" was held at Hudson's Smokehouse in Harbison the Monday following Valentine's Day. Auction items were enthusiastically bought by an eager crowd. Council members spoke of their individual journeys as crime victim survivors and the Attorney General pledged his continued support for crime victim rights in South Carolina.

The auctioneer Brian Marion did his usual great job of engaging the crowd. Over \$7,000 was raised through ticket sales and auction items.



SCCVC Council members present at the fund raiser for the Memorial Garden: From left to right, Patrick Gaddie, Randall Smith, Karen Smith, Executive Director Laura Hudson, President Jackie Olsen, & Debbie & Warren Holsonback.



Fabienne Deyoe & her husband George enjoy barbecue with Veronica and David Kunz at the auction

Remember the Crime Victim Memorial Garden & Pathway of Remembrance

If you have a loved one who is a victim of Crime and would like to take part in a permanent memorial to them or to a special group of victims, you may purchase an engraved brick, a plaque or a bench on the website:

WWW.SCCVC.ORG



The Honorable Henry McMaster, Attorney General of SC presents drawings of the Memorial Garden Plans to the supporters of the fund raising event. Randal and Karen Smith of the governing Board listen



Darrell and Gay Hudson, Dr. Greg Konduras and wife Cindy are part of the bidders at the auction



Patrick Gaddie, father of Kendra & former SLED Chief Robert Stewart listen to the AG.



Representative Doug Jennings of Marlboro County who served in the House of Representatives from 1991-2010 has chosen to retire after this year. He has served on the Criminal Law Sub Committee of the House Judiciary and been a faithful champion of crime victims' rights. He will be especially remembered for his efforts on the behalf of law enforcement in crafting DNA law.

Doug, crime victims will miss you, arguments, compromises and disagreements included. You are ever the gentleman and always willing to listen. This author first met you when you served as the 4th Circuit Solicitor from 1982-88.

Enjoy you new life and thanks for everything!

HOW TO JOIN THE SOUTH CAROLINA CRIME VICTIMS' COUNCIL

Membership is open to crime victim/survivors of all types of crime, crime victim service providers, professionals in allied fields, and all citizens with an interest in safety and the criminal justice system.

Name: _____

Profession: _____

Address: _____

Telephone #: _____ E Mail: _____

Web Site: _____ Victim/Survivor: Yes___ No___

Nature of Crime: _____

Fill out the above information & Fax to 1 866 594 7041 or email the information to

laurahudson@SCCVC.org or fill out the form provided at WWW.SCCVC.ORG

Membership entitles you to continued receipt of "The Voice" and updates on all public policy activities, fund raisers & bulletins

"The Voice" is produced by the SC Crime Victims' Council,
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Editor: Laura Hudson

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All contributions are tax deductible

Contributing authors, Letters to the Editor, Op-ed articles
are accepted upon review of the Governing Council. No pro-
fanity or coarse language will be accepted.

Those desiring to contribute should consult the web site for
deadlines. This edition is the summer of 2010, the next
publication will be Summer of 2011 with an expected publi-
cation date of July 30.

All materials should be submitted in an electronic format to

LauraHudson@SCCVC.org

