



A PUBLICATION OF THE SOUTH CAROLINA CRIME VICTIMS' COUNCIL
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SC UNITY CEREMONY IN CELEBRATION OF NATIONAL VICTIMS' RIGHTS WEEK 2009

In recognition of National Crime Victims' Rights Week, the **4th Annual South Carolina Crime Victims' Unity Ceremony** was held on the State House **Tuesday, April 28, 2009 at 11:00 a.m.** . The Ceremony was sponsored by the Crime Victims' Ombudsman and the State Office of Victim Assistance. Lunch was provided. Several



hundred crime victims, public officials and service providers gathered to honor South Carolina Crime Victims and their families. A proclamation from Governor Sanford was read and the Honorable Attorney General of SC, Henry McMaster, SLED Director, Reggie Lloyd, The Honorable Senator Kevin Bryant of Anderson and others spoke to those gathered on the South steps of the Capitol

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Captain Patsy Lightle, head of the **Crime Victim's Special Unit** for SLED & Director of SLED, **Reggie Lloyd**, listen intently to speakers at the Unity Ceremony



SLED Director Reggie Lloyd brings a message of support from the law enforcement community to crime victims and citizens. Director Lloyd has significantly increased crime victim services within SLED since taking office.



The Honorable Attorney General **Henry McMaster**



The Honorable Kevin Lee Bryant, Senator from Anderson brings remarks to a large crowd of crime victims and service providers



Hope Blackley, Ombudsman, & recently appointed SOVA Director Dr. **Larry Barker** honor The Keynote Crime Victim Speaker: **Permeco Myers**

The conference for **Victims' Rights Week**, took place in Greenville this year. The Candlelight Vigil, held the evening of April 30 was beautiful. Special thanks to **Pam Gregory** (FBI Advocate) and **Mary Ann Stroup** (Greenwood County Sheriff's Department Advocate) for the organization and planning of the event. Attendees shared their stories of grief and survivorship, recited their loved ones names, carried luminaries, remembered the past and sang together. The **Reverend Eric Skidmore**, Law Enforcement Assistance Program, brought a message of comfort and hope. **Brian Bennett** of the Criminal Justice Academy shared his thoughts, and the **Honorable Walt Wilkins**, US Attorney for South Carolina expressed his concern for and commitment to crime victim rights at the federal level.



Rev. Eric Skidmore



US Attorney Walt Wilkins



Laura Hudson, Patrick Gaddie and Michelle Gaddie pose after the Vigil



Nicole Goodwin, Bob Hudson, Shannon (eyes closed) Geary & Brian Marion



Rev Eric Skidmore and Greenwood Advocate Mary Ann Stroup discuss crime victim needs after the Vigil



David Abercrombie, David Satterwhite and our own Pam Gregory performed for the event

The Path to Activism

By Michelle Gaddie, Mother of Kendra Gaddie

It is hard to know where to start the telling of our family's story. The beginning seems blurred to me now. I could say that the beginning started way back from my own childhood when I myself was a victim of child abuse. My husband also suffered terrible abuse growing up as a child.

We shared a common understanding in adulthood that our children would never grow up the way we did. Our children would grow up loved and cared for...appreciated as the gifts from God that they are.

This understanding was cemented even further with the death of our infant son Patrick Eugene Gaddie Jr, at the age of 2 ½ months, from viral Pneumonia almost 5 years ago. After the death of our son we were blessed with two additional children; Bruce now aged 3 ½ and Kendra aged 2. Our children give meaning to our lives. We never lose sight of just how precious they are to us.

On Dec 8, 2008, Talisha Smith-Sherrod our then former child care provider plead guilty to "Great Bodily Injury to a Child" She struck my infant daughter Kendra on March 19th 2008 at the tender age of just 7 months with enough force to nearly end her life. It was God's mercy that saved my daughter's life that night as we sat up with her in the ICU of the Children's hospital at Palmetto Richland. Her recovery continues to this day. Each night as she lies sleeping in her bed I feel forever blessed to still have her in our lives.

I had never sat in a courtroom before... it was a surreal experience. Judge Kenneth Goode sat on the bench and presided over our daughter's case on Dec 8th. During the proceeding the judge appeared confused and almost disoriented prompting me to ask my victim's advocate "what is wrong with him... is he ill?" After hearing from the prosecutor and from myself about the extent of my child's injuries and suffering, Judge Kenneth Goode handed down a sentence of 10 years suspended to 5 years PROBATION! Now the confusion was all mine. I could not grasp what had just happened, immediately I remember shouting in open court " What just Happened! Did I hear that right?!" prompting the prosecutor to rush me out of the courtroom saying something to me about contempt of court.

I felt my daughter was victimized all over again. The justice system had failed her. I left the courtroom that day feeling defeated and powerless. So many people told me how sorry they were, as I was inconsolable.

The next morning I was on a flight to Boston for work. I had not slept the entire night. I kept going over the events of the previous day trying to make some sense to them. As my flight descended into Boston that morning the only thing I knew is that we had to do something. This could not be the end. Justice had yet to be served.

The first thing I did when I hit the office was to hit the internet. I looked up Victims' Rights in SC and I found the SCCVC.ORG website. I looked up contact numbers and found Laura Hud-

son's number. I called her and she picked up on the second ring! I told her my story and asked her for help. She has been a true Godsend to our family... she has been with us each step of the way and I am humbled to call her my friend. Ms. Hudson suggested we ask the prosecutor to file a motion for reconsideration.

My next call was to my victim's advocate. I asked her about filing a motion to reconsider the sentence. I told her that I planned to be outside the Courthouse on Friday to publicly protest the sentence handed down by Judge Kenneth Goode. The motion to reconsider the sentence was filed on Wednesday and as promised I stood outside the Courthouse on Friday. I passed out flyers on the details of our case to every person that walked by... all 1000 of them . There are some crimes where PROBATION should never be an option... "Great Bodily Injury to a Child" is one of those crimes. I talked to the media about our case and to everyone who stopped long enough to listen. I directed everyone I talked with to visit our website www.justiceforkendra.com and to pass the website address to everyone they knew.

The following week we protested again, this time outside the Statehouse joined by Laura Hudson, family and friends. Our protest caught the attention of an aide to Senator Mike Fair of Spartanburg. Senator Fair got in touch with Laura Hudson and expressed his interest in sponsoring a bill for us with the General Assembly...now we were getting somewhere. **S 348 "Kendra's Act" was introduced at the last session of the General Assembly.**

The bill requires a mandatory minimum of 2 years prison for Day Care providers in the state of SC who are found guilty of "Great Bodily Injury to a Child". The passage of this bill still faces many hurdles within the General Assembly. Hurdles we will continue to meet head on.

In January Judge Kenneth Goode was to come up for re-election to Judge-at-large, Seat 8. I wrote a letter to the Honorable **Senator Glenn McConnell of Charleston (Chair of the Judicial Merit Selection Commission)** alerting him to my concerns with Judge Goode's re-election... clearly stating our reasons why we didn't feel Judge Goode's appointment would be in the best interest of Justice in our state. I humbly asked him for his support.

Judge Goode's election of February 11 was postponed by the Judge's own request. On Feb 19th 2009 a Hearing was held by the Judicial Merit Selection Commission on Judge Goode's handling of not only our case but several other cases of notoriety.

My Husband and I testified at this hearing. I watched as a number of the members of the committee attempted to lay blame on the Prosecutor's office for the handling of our case. I held steadfast to the facts of our case. After the hearing I found myself drained emotionally and physically. It took me a good week to feel like myself again.

Additional reporting by Rick Brundrett of The *State* newspaper uncovered additional areas of concern regarding Judge Goode's competency. Shortly after the hearing was held Judge Goode announced his retirement from the bench effective June 30th 2009 thus removing his name for consideration for re-election to Circuit Court..

On June 11th 2009 Judge "Buddy" Nickolson denied our Motion to reconsider the sentence of Talisha Smith-Sherrod stating that the sentence handed down by Judge Goode was a legal sentence under current SC law and could not be changed. The outcome was not unexpected

Our motion although unsuccessful did have some positives. The controversy surrounding our case has brought attention to much of what is wrong with how our courts handle sentences for crimes against our children, the most vulnerable and innocent of victims.

It also let everyone know that the Victims and Survivors of crime will not be ignored. We have a voice and it is powerful and our voices can effect change in our legal system. There have been statements made by others in the justice system that our family's actions were taken out of revenge. If that were indeed true I would have been the one standing before a Judge and not Talisha Smith-Sherrod. We are not motivated by revenge. We are motivated by Justice! A promise I intend for the justice system to keep to all of us.

It is important for me to note that I too was one of those people who would hear about a crime against a child and think "How tragic and terrible" I would, like most of us shake my head in disgust.

It was not until our family was touched **personally by crime** that we were spurred to action. There are those in our society who only need to hear of injustices and have the strength and courage to take action. They are my true heroes.

It is my hope that our story can incite additional heroes to come forward and take up the mantle for crime victims and survivors. I know now that the path that lies before me was put in motion by God long before I was ever aware of it. I have faith that the Lord knows what he is doing. Our family will continue to fight for the children in this state who all too often are too young to have a voice of their own. We can and will make a difference.



KENDRA GADDIE, NOW 2 YEARS OLD

EDITOR'S NOTE: The statute number for Infliction or Allowing of Great Bodily Injury Upon a Child is **§16-3-95** (0-20 year Felony). The bill, **S. 348**, introduced by Senators Fair, Sheheen, S. Martin, Lourie, Shoopman & Knotts, is currently on the Senate Floor for 2nd Reading.

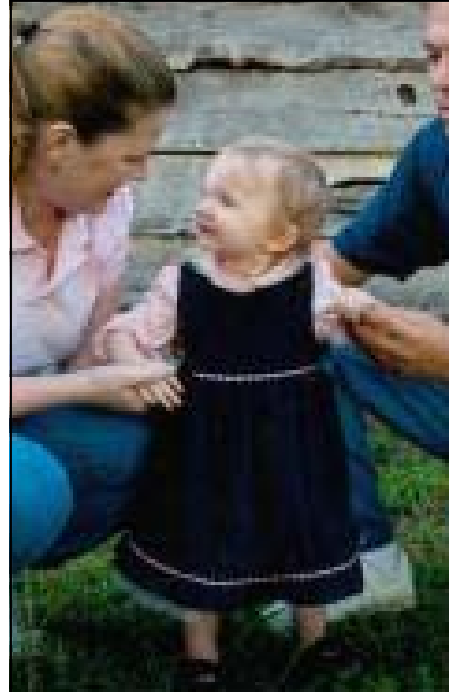
Senator Brad Hutto of Orangeburg (defense attorney) has filed a minority report on the Bill which has stopped the Bill until it can be set for special order (**S. Larry Martin** is head of the Rules Committee that makes special order decisions) and debated in January of 2010.



The Gaddie Family Today
Patrick, Michelle, Jessica
Bruce and Kendra



Kendra Gaddie & Mommy



Kendra Gaddie with her parents,
Michelle & Patrick

CRIME VICTIMS HAVE DISAPPOINT

New language in the Proviso sections of the State Budget concerning compliance in Crime Victim Services. A Proviso is only for the fiscal year from July 1 of 2009—June 30 of 2010...then may be made part of a new Proviso or permanent law. These Provisos are an important step in obtaining some sort of oversight of \$13 million dollars and long overdue!

72.25. (GOV: OEPP - Victim and Witness Assessment/Surcharge Study) The State Office of Victim Assistance (SOVA) shall conduct a study of the collection, distribution, and percentage allocation of the assessments and surcharges for victim and witness services pursuant to the Victim and Witness Service Act. SOVA shall impanel a committee of service requirement providers including, but not limited to, local law enforcement, local detention facilities, prosecutors, and the summary courts to provide a review of the five prior years of collections, distributions, and percentage allocations of assessments and surcharges for local funding of victim and witness services as provided in Sections 14-1-206(D), 14-1-207(D), 14-1-208(D), and 14-1-211(B) of the 1976 Code. A report on the findings of the review must be submitted to the Senate Finance Committee and the House Ways and Means Committee by December 31, 2009.

89.70. If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14-1-206(B)(D), 14-1-207(B)(D), 14-1-208(B)(D), and 14-1-211(B) of the 1976 Code, the State Auditor shall notify the State Office of Victim Assistance. The State Office of Victim Assistance is authorized to conduct programmatic reviews on any entity or non-profit organization receiving victim assistance funding based on the referrals from the State Auditor or complaints of a specific nature received by the State Office of Victim Assistance to ensure that crime victim funds are expended in accordance with the law. Any local entity or non-profit organization who receives funding from victim assistance is required to submit their budget to the State Office of Victim Assistance within thirty days of the budget being approved by the local governing entity or non-profit organization. In addition, any entity or non-profit organization receiving victim assistance funding must cooperate and provide expenditure/program data requested by the State Office of Victim Assistance. If the State Office of Victim Assistance finds an error, the entity or non-profit organization has ninety days to rectify the error. An error constitutes an entity or non-profit organization spending victim assistance funding on unauthorized items. If the entity or non-profit organization fails to rectify the error within ninety days, the State Office of Victim Assistance shall assess and collect a penalty of the amount of the unauthorized expenditure plus \$1,500 against the entity or non-profit organization for improper expenditures in a fiscal year. All penalties received by the State Office of Victim Assistance shall be credited to the General Fund of the State. If the penalty is not received by the State Office of Victim Assistance within ninety days, the political subdivision will deduct the amount of the penalty from the entity or non-profit organization's subsequent fiscal year appropriation.

[H.3022](#) "UNIFORM EXPUNGEMENT OF CRIMINAL RECORDS ACT"

The General Assembly approved legislation enacting the "Uniform Expungement of Criminal Records Act." This legislation provides a uniform procedure for how applications for expungement of all criminal records must be administered by the solicitor's office in each circuit of the State. Only certain offenses are statutorily eligible to be expunged.

Expungement Process

The clerk of court shall direct all inquiries concerning the expungement process to corresponding solicitor's office to make application for expungement. A person applying to expunge a criminal record shall obtain the appropriate

TING YEAR IN GENERAL ASSEMBLY

blank expungement form from the solicitor's office in the judicial circuit where the charge originated. The use of this form is mandatory.

The applicant is responsible for payment to the solicitor's office of a nonrefundable, administrative fee of \$250 per individual order. The solicitor's office prosecuting the case in a court of General Sessions, at no cost to the accused person, shall cause an order for expungement to be issued for a person who is acquitted or who has his charges dismissed, discharged or nolle prossed unless the request was dismissed, discharged or nolle prossed as part of a plea arrangement under which the defendant pled guilty and was sentenced on other charges. The legislation includes similar provisions when criminal charges are brought in summary court and the accused is found not guilty or the charges are dismissed or nolle prossed.

The solicitor's office shall implement policies and procedures to ensure that the expungement process is properly conducted. The legislation requires the solicitor or his designee to provide a copy of the completed expungement order to the applicant or his retained counsel.

As appropriate, the circuit pretrial intervention director, alcohol education program director, summary court judge, or State Law Enforcement Division (SLED) shall verify and document that the criminal charges in all cases are appropriate for expungement. SLED shall receive a \$25 fee for each verification request from the solicitor on behalf of the applicant. However, in the case of juvenile expungement, verification and documentation that the charge is statutorily appropriate for expungement must first be accomplished by the Department of Juvenile Justice and then SLED.

The applicant is also responsible to the clerk of court for the filing fee per individual order; however, if the charge is determined to be statutorily ineligible for expungement this prepaid clerk of court filing fee must be refunded to the applicant by the solicitor. Also, a filing fee may not be charged by the clerk's office to an applicant when the charge was discharged, dismissed, nolle prossed, or the applicant was acquitted. Each expungement order may contain only one charge sought to be expunged, except in those circumstances when expungement is sought for multiple charges occurring out of a single incident.

An applicant may seek relief in circuit court when a solicitor, in his discretion, does not consent to expungement. The solicitor may waive the fee when it is determined that a person has been falsely accused of a crime as a result of identity theft.

Each solicitor's office shall maintain a record of all fees collected related to expungement of criminal records which must be made available to the Chairmen of the House and Senate Judiciary Committees.

Booking Records, Files, Mug Shots, Fingerprints and Other Evidence

Under this legislation, local and state detention and correctional facilities may retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated for a period not to exceed three years from the date of the expungement order to manage their statistical and professional information needs and where necessary, to defend such facilities during litigation proceedings except when an action, complaint or inquiry has been initiated. Information retained by a local or state detention or correctional facility as permitted under this section after an expungement order has been issued is not a public document and is exempt from disclosure. A person who otherwise intentionally retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to the charge discharged or dismissed is guilty of contempt of court.

South Carolina Court Administration Notice on All Bond Paperwork

The legislation requires South Carolina Court Administration to include on all bond paperwork and courtesy summons the following notice: "If the charges that have been brought against you are discharged, dismissed, or nolle processed or if you are found not guilty, you may have your record expunged."

Youthful Offender Provisions

This bill reduces the timeframe following a first offense conviction as a youthful offender the defendant may apply for an expungement order from fifteen years from the date of conviction to five years from the date of completion of the sentence, including probation and parole.

First Time Drug Offenses

Relating to conditional discharge of certain first time drug offenses, this bill removes the current requirement that the person not be over twenty-five years of age at the time of the offense.

STATUS: Having been approved by the General Assembly, [H.3022 \(R.89\)](#) was ratified on May 27, 2009, and was signed into law by the Governor on June 2.

[H.3311](#). In order to expedite the placement of adoptive children in stable and permanent homes, the bill establishes the **RESPONSIBLE FATHER REGISTRY WITHIN THE DEPARTMENT OF SOCIAL SERVICES**. In order to expedite the placement of adoptive children in stable and permanent homes, the General Assembly approved legislation establishing the Responsible Father Registry within the Department of Social Services. The purpose of this registry is to provide notice of adoption or petition for termination of parental rights proceedings to unmarried biological fathers who affirmatively assume responsibility for children they may have fathered by registering. No unmarried biological father who fails to file a claim of paternity with the registry is entitled to notification of any adoption proceeding or any termination of parental rights proceeding concerning the unmarried biological father's child. The registry is not available for public inspection and is not subject to disclosure under the Freedom of Information Act; however, under certain circumstances outlined in the legislation the information may be disclosed. Any unauthorized use, or attempted unauthorized use, of the registry is expressly prohibited, and any person or organization seeking, receiving, using, or publishing, or attempting to do so, of any information contained in the registry in violation of these provisions is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 or imprisoned for not more than 30 days, or both. A person who knowingly, maliciously, or in bad faith files a false claim of paternity with the registry is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 or imprisoned for not more than 30 days, or both.

Petitions for Termination of Parental Rights

Relating to persons or entities entitled to be served with a petition for termination of parental rights, this legislation further specifies the age as fourteen for serving a child and provides for service on the guardian ad litem of a child under fourteen years of age. The legislation also specifies the notice provisions applicable to an unmarried biological father of a child whose parental rights are being terminated.

The legislation requires the hearing on the petition to terminate parental rights to be held within 120 days of the date the termination of parental rights petition is filed. A party may request a continuance that would result in the hearing be held more than 120 days after the petition was filed, and the court may grant a continuance in its discretion. If a continuance is granted, the court must issue a written order scheduling the case for trial on a date and time certain. The purpose of this registry is to provide notice of adoption or petition for termination of parental rights proceedings to unmarried biological fathers who affirmatively assume responsibility for children they may have fathered by registering. No unmarried biological father who fails to file a claim of paternity with the registry is entitled to notification of any adoption proceeding or any termination of parental rights proceeding concerning the unmarried biological father's child. The registry is not available for public inspection and is not subject to disclosure under the Freedom of Information Act; however, under certain circumstances outlined in the legislation the information may be disclosed. Any unauthorized use, or attempted unauthorized use, of the registry is expressly

prohibited, and any person or organization seeking, receiving, using, or publishing, or attempting to do so, of any information contained in the registry in violation of these provisions is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 dollars or imprisoned for not more than thirty days, or both. A person who knowingly, maliciously, or in bad faith files a false claim of paternity with the registry is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 dollars or imprisoned for not more than thirty days, or both. Relating to persons or entities entitled to be served with a petition for termination of parental rights, this bill further specifies the age as fourteen for serving a child and provides for service on the guardian ad litem of a child under fourteen years of age. The bill also specifies the notice provisions applicable to an unmarried biological father of a child whose parental rights are being terminated. **Signed by Governor 6/02/09**

H.3118, relating to the **SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM**, received a favorable with amendment recommendation. This bill allows the South Carolina Guardian ad Litem Program, or a county guardian ad litem program, whichever is appropriate, to intervene in an abuse or neglect proceeding in order to petition the court to relieve the volunteer, lay guardian ad litem from appointment for the following reasons: (a) incapacity; (b) conflict of interest; (c) misconduct; (d) persistent neglect of duties; (e) incompetence; or (f) a knowing and willful violation of program policies and procedures that affect the health, safety, and welfare of the child. The court shall determine what is in the best interest of the child when ruling on the petition. This bill also provides that reports and information maintained by a guardian ad litem are confidential. **Signed by Governor 6/02/09**

H.3677, a bill enacting the "**VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT**". This legislation's stated intent is to bring South Carolina into compliance with the federal Violence Against Women Act. With regards to certain offenders being ordered by the court to be tested for Hepatitis B and HIV at the request of the victim, this bill broadens the definition of "offender" to include both juveniles and adults. The bill further provides that the Department of Health and Environmental Control must advise the victim of available treatment options, and upon request of the victim, provide testing and post-testing counseling. The legislation prohibits law enforcement and prosecuting officers from asking or requiring a victim of an alleged criminal sexual offense to submit to a polygraph examination; the refusal of a victim to submit to such an examination does not prevent the investigation, charging or prosecution of the offense. The legislation deletes the current provision requiring victims of criminal sexual conduct or child sex abuse to file incident reports for those victims to be able to receive a "medicolegal" examination without charge. At the time a person is convicted of violating certain criminal domestic violence offenses, this legislation requires the court to deliver to the person a written form that gives notice to the person that it is illegal under federal law for a person convicted of those offenses to ship, transport, possess or receive a firearm or ammunition. **After much delay and wrangling, passed both the Senate and House. Signed by the Governor 6/02/09. The passage assures the state receiving much needed VAWA funds. Special thanks to Jeff Moore of the SC Sheriff's Association, for his efforts to preserve this legislation. Senator Darrel Jackson, Rep. Gilda Cobb-Hunter, Vickie Bourus, and Senator Jake Knotts deserve our thanks for not giving up and lending their years of experience to this effort.**



Rep. Gilda Cobb-Hunter of Orangeburg and Vickie Bourus, Executive Director of SCCADVSA give a satisfied, relieved, "thank goodness" smile upon passage of the "VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT".

H.3761 (R.114) LAW ENFORCEMENT TRAINING AND EDUCATION The General Assembly approved

legislation which allows forfeited monies and proceeds from the sale of property related to drug proceeds to be used for drug or other law enforcement training or education. *STATUS: Having been approved by the General Assembly, [H.3761 \(R.114\)](#) was ratified on May 27, 2009, and became law without the Governor's signature on June 3.*

[H.3087](#) received a favorable report. Under this bill, a **LOCAL GOVERNMENT MAY NOT ENACT AN ORDINANCE THAT EXPANDS OR CONTRACTS THE BOUNDARIES OF THE AREAS IN WHICH A SEX OFFENDER MAY OR MAY NOT RESIDE THAT ARE CONTAINED IN STATE LAW.** Ratified by both the House & Senate, **VETOED BY THE GOVERNOR 6/02/09 VETO OVERRIDDEN JUNE 16.**

S*0289(Rat #0007) Joint Resolution, By L. Martin A JOINT RESOLUTION TO ALLOW THE CRIMINAL DOMESTIC VIOLENCE STUDY COMMITTEE, AS ESTABLISHED BY ACT 402 OF 2008, ADDITIONAL TIME TO REVIEW THE CRIMINAL DOMESTIC VIOLENCE LAWS OF THE STATE AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING ANY PROPOSED CHANGES. [View full text](#) **Ratified by both Houses, Signed by Governor.**

PASSED THE SENATE BUT NOT THE HOUSE

[S.4 "SOUTH CAROLINA TEACHER PROTECTION ACT OF 2009"](#) **Sen. McConnell** This legislation allows a teacher to bring a civil action against a student who commits a criminal offense against the teacher if the offense occurs on school grounds or at a school-related event, or if the offense is directly related to the teacher's professional responsibilities. No teacher has civil liability to a student or to a party acting in the interest of the student for an act or omission by the teacher that occurs while the teacher is acting within the scope of the teacher's employment and if the teacher meets certain other criteria. Relating to the offense of a student committing assault and battery against a person affiliated with a school in an official capacity, this bill establishes misdemeanor as well as felony offenses. Under this legislation, if an injury prevents a person from returning to his former position within the school district, he must be allowed to continue to participate in all retirement, insurance and deferred compensation programs he was enrolled in at the time of the injury. Also, the district must continue to make employer contributions. The legislation requires school administrators to report incidents to law enforcement for investigation. **Passed the Senate, sent to the House 2/11/09, currently residing in the House Judiciary Committee.**

[S.107 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE REVISIONS \(STUDENT/SCHOOL EMPLOYEE SEXUAL CONTACT PROHIBITONS\)](#) **Sen. Ryberg** This legislation provides 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. 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 \$500 dollars or imprisoned for 30 days, or both. 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 is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. An exception is provided for a person affiliated with a public or private secondary school who is lawfully married to the student enrolled in the school at the time of the act. **Bill passed the Senate and is now residing in the Criminal Law Sub-committee (Rep. Keith Kelly, Chairman) of the House Judiciary for consideration in January of 2010.**

[S.153 HOME INVASION](#) **Sen. Campsen** This legislation creates the felony offense of home invasion punishable by life imprisonment. The court, in its discretion, may sentence a defendant to a term of not less than twenty years. Under this bill, home invasion is a violent crime. The legislation provides an exception for a law enforcement offi-

cer acting within the scope of the officer's official duties. **Passed the Senate, currently residing in the House Judiciary for consideration in January**

S.288 *VIOLENT CRIMES AND DRIVER'S LICENSES AND SPECIAL IDENTIFICATION CARDS* Sen. **Larry Martin** This bill provides that a person who is convicted of a violent crime must surrender his driver's license or special identification card to the court which must transmit it to the Department of Motor Vehicles together with notice of the crime. The bill further provides that the driver's license or special identification card is considered revoked and must not be returned to the person under certain circumstances. Under this bill, a person convicted of a violent crime 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 for its distribution, and it provides a process for removing the code. Applications for a driver's license or special identification card must contain a statement to determine whether the applicant has been convicted of a violent crime. **Passed the Senate on 4/23/09, currently residing in the House Judiciary for consideration in January.**

S.343 *POSTING CASES OF ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS ON THE STATE'S WEBSITE* Sen. **Lourie** This concurrent resolution requests the South Carolina Budget and Control Board to require all agencies with investigative authority under the Omnibus Adult Protection Act, or any federal statute, to make their cases of abuse, neglect, and exploitation of vulnerable adults which were substantiated or resulted in criminal convictions available on the State's website in a format to be developed by the Adult Protection Coordinating Council. **Passed the Senate, residing in the House Ways and Means Committee as of 4/29/09.**

S.23 *PROHIBITION ON SMOKING IN A VEHICLE WHEN MINORS TEN YEARS OF AGE OR YOUNGER ARE OCCUPANTS* Sen. **Jackson** Among other things, this legislation provides that it is unlawful for a driver or occupant of a fully enclosed private or public passenger motor vehicle to smoke a tobacco product while a child ten years of age or younger is in the vehicle. A person who violates these provisions, upon conviction, must be fined not more than \$150 dollars. **Passed the senate, currently residing in the House Judiciary Committee for consideration in January.**

S.144 *RATIFICATION OF CONSTITUTIONAL AMENDMENT RELATING TO AGE OF CONSENT OF AN UNMARRIED WOMAN UNDER THE AGE OF FOURTEEN* Sen. **Campsen** This bill ratifies an amendment to the State Constitution relating to the provision providing that no unmarried woman under the age of fourteen years old may legally consent to sexual intercourse, so as to delete that provision. **Passed the Senate 5/12/09, currently residing in House Judiciary for consideration in January.**

S.248 *CREATION OF THE OFFENSES OF UNLAWFULLY PROVIDING BEER OR WINE OR ALCOHOLIC LIQUORS TO MINORS WHICH IS THE PROXIMATE CAUSE OF GREAT BODILY INJURY OR DEATH TO THE MINOR* Sen. **L. Martin** This legislation creates the offenses of unlawfully providing beer, wine or alcoholic liquors to a minor which is the proximate cause of great bodily injury or death to the minor. The legislation provides criminal penalties for violations. Violations by adults are felony offenses, and violations by minors can either be a misdemeanor or felony offense. The legislation includes specified exceptions. **Passed the senate 5/01/09, currently residing in the Hose Judiciary Committee for consideration in January.**

S.282 *ARREST WARRANTS* Sen. **McConnell**

Among other things, this legislation provides 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. If an arrest warrant is sought by someone other than a law enforcement officer, the court must issue a courtesy summons. This provision does not apply to a business seeking an arrest warrant for any offense against the business, a person seeking an arrest warrant for a fraudulent check, if the fraudulent check is presented to the magistrate at the time the warrant is sought, or offenses involving criminal domestic violence, harassment, or assault and battery of a high and aggravated nature. If a defendant named in a courtesy summons fails to appear before the court pursuant to the summons, the court may issue an arrest warrant for the underlying offense based upon the original sworn statement of the affiant who sought the courtesy summons, provided the sworn statement establishes probable cause that the underlying

offense was committed. **The Bill was amended in Sub committee to include CDV, Harassment and ABHAN as exceptions to the courtesy summons.** Passed the Senate 5/12/09, currently residing in the Criminal Law Sub-committee of the House Judiciary (Rep. Keith Kelly, Chair) for consideration in January. **IMPORTANT TO CRIME VICTIMS!**

S.553 SOUTH CAROLINA SUMMER CAMP STUDY COMMITTEE Sen. Hutto

This legislation creates the South Carolina Summer Camp Study Committee to study the summer camps and to recommend legislation, if appropriate, related to the licensing and regulation of summer camps. Members serve without compensation, and staffing for the committee must be provided by the Department of Social Services. The study committee must complete and render a written public report detailing its findings and recommendations, to include any recommended legislation, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives by no later than January 31, 2010, at which time the study committee must be dissolved. **Passed the Senate, currently residing in the House Judiciary for consideration in January.**

S.554 DUTIES OF THE STATE CHILD FATALITY COMMITTEE Sen. Hutto This bill authorizes the State Child Fatality Committee to request, once a child fatality is reviewed and upon findings of the committee that a



Rep. Keith Kelly (R) (Spartanburg), Chairman of the Criminal Law Sub-Committee of the House Judiciary

Rep. Kelly, is from District 35. He is a defense Attorney with the law firm of Lister, Flynn & Kelly and lives in Woodruff



Rep. Doug Jennings (D) (Marlboro), member of the Criminal Law Sub-Committee of the House Judiciary

from District 54, a defense attorney residing in Bennettsville. He has served in the House since 1991



Rep. Tom Young (R) (Aiken) freshman member Criminal Law Sub-Committee of the House Judiciary District 81, a defense attorney



Rep. Derham Cole, Jr. (R) (Spartanburg) member of the Criminal Law Sub-Committee of the House Judiciary District 32 residing in Columbia

risk of harm still exists due to reasons including, but not limited to criminal domestic violence, drug abuse, abuse or neglect in the home of the fatality where young children continue to live, that a case be initiated by the Department of Social Services (DSS). The findings of the committee must be treated as a suspected report of abuse or neglect as the committee considers necessary, and a request by the committee must not be screened out. DSS has 60 days after the request is made to investigate and furnish the committee with a report. **Passed the Senate, currently residing in the House Judiciary for consideration in January.**

S 0191 General Bill, By McConnell, Malloy, Campsen, Sheheen, Ford, Rose, Campbell and Knotts A BILL TO ENACT THE SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2009, SO AS TO PROVIDE LAW ENFORCEMENT OFFICERS WITH THE STATUTORY AUTHORITY TO REDUCE RECIDIVISM RATES, APPREHEND CRIMINALS AND PROTECT POTENTIAL VICTIMS FROM CRIMINAL ENTERPRISES BY AUTHORIZING WARRANTLESS SEARCHES AND SEIZURES OF PROBATIONERS AND PAROLEES including juveniles, etc. Passed the Senate 2/26/09. **Currently in the House Judiciary, Criminal Law sub-committee** [View full text](#)



Senator Phillip Shoopman (R)
Greenville co sponsored **Kendra's Law S.348** along with S. Mike Fair



Laura Hudson & **Rep. Ted Pitts (R)** of Lexington smile on the last days of the General Assembly. Rep. Pitts introduced **H.3230** to help the investigations of child abuse cases.



Rep Alan Clemmons (R) Horry points to some fellow legislators. Rep Clemmons is a strong supporter of Victim Rights & a great help this year.

PASSED THE HOUSE BUT NOT THE SENATE

H.4022 "SOUTH CAROLINA FIREARMS FREEDOM ACT" Rep. E. H. Pitts
This bill enacts the "South Carolina Firearms Freedom Act" so as to provide that a firearm, firearm accessory, or ammunition manufactured and retained in South Carolina is exempt from federal regulation under the Commerce Clause of the United States Constitution. **Passed the House 5/20/09, currently residing in the Senate Judiciary. This bill may adversely affect Federal Gun Law regulations for CDV violations.**



Joe Mack of the Southern Baptist Convention "kneeling & talking" to **Cathy Trzcinski**



Vickie Bourus looks over the House Calendar in the lobby of the State House. Vickie chairs the Family Violence and Sexual Assault Committee for SCCVC.



Bryan Stirling of the AG's Office warms a seat at the Sentencing Commission hearings in May



Rep. Erickson introduced H. 3309 to create new study committee for day care

BILLS INTRODUCED AWAITING ACTION IN JANUARY

S 0206 General Bill, By L. Martin, Rose, Massey, Davis and McConnell Similar ([H 3166](#), [H 3853](#)) A BILL TO AMEND SECTION 24-13-100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF THE TERM "NO PAROLE OFFENSE", SO AS TO REVISE THE DEFINITION TO INCLUDE CLASS D, E, AND F FELONIES, CLASS A, B, AND C MISDEMEANORS, AND OFFENSES CLASSIFIED AS EXEMPT WHICH ARE PUNISHABLE BY A MAXIMUM TERM OF IMPRISONMENT OF ONE YEAR OR MORE, TO PROVIDE THAT A PERSON WHO IS FOUND GUILTY OF, OR PLEADS GUILTY OR NOLO CONTENDRE TO, A "NO PAROLE OFFENSE" IS NOT ELIGIBLE FOR EARLY RELEASE FROM INCARCERATION UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE AN EXCEPTION RELATED TO THE YOUTHFUL OFFENDER ACT; AND BY ADDING CHAPTER 29 TO TITLE 14 SO AS TO ENACT THE "MIDDLE COURT PROCESSES ACT", TO REQUIRE THE CREATION AND ADMINISTRATION OF A MIDDLE COURT PROCESS IN EACH JUDICIAL CIRCUIT BY THE ATTORNEY GENERAL, TO PROVIDE FOR THE APPOINTMENT, POWERS, AND DUTIES OF A MIDDLE COURT JUDGE, TO PROVIDE REQUIREMENTS FOR AN OFFENDER TO QUALIFY FOR ADMISSION TO A MIDDLE COURT PROCESS, AND TO REQUIRE FUNDING OF THE MIDDLE COURT PROCESS BY THE GENERAL ASSEMBLY TO THE JUDICIAL DEPARTMENT, THE ATTORNEY GENERAL'S OFFICE, AND THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES. [View full text](#) 12/17/08 Senate Prefiled 12/17/08 Senate Referred to Committee on Judiciary 01/13/09 Senate Introduced and read first time [SJ-168](#) 01/13/09 **Senate Referred to Committee on Judiciary 01/23/09** Senate Referred to Subcommittee: Malloy (ch), Ford, Knotts, Campsen



Senator Larry Martin
of Pickens
Introduced several bills of importance to crime victims this year

S 0426 General Bill, By L. Martin Similar ([H 3167](#)) A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 20-1-110 SO AS TO PROVIDE THAT COMMON-LAW MARRIAGE IN THE STATE MAY NOT BE RECOGNIZED ON AND AFTER JANUARY 1, 2010, AND TO PROVIDE AN EXCEPTION FOR A COMMON-LAW MARRIAGE EXISTING AS OF DECEMBER 31, 2009; AND TO REPEAL SECTION 20-1-360 RELATING TO THE VALIDITY OF A MARRIAGE CONTRACTED WITHOUT THE ISSUANCE OF A LICENSE. [View full text](#) 02/17/09 Senate Introduced and read first time 02/17/09 **Senate Referred to Committee on Judiciary 02/19/09** Senate Referred to Subcommittee: Sheheen (ch), Knotts, Campsen, Lourie, Campbell

S0790 General Bill, By L. Martin Similar ([H 3031](#)) A BILL 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. [View full text](#) 05/06/09 Senate Introduced and read first time 5/06/09 **Senate Referred to Committee on Judiciary 05/13/09** Senate Referred to Subcommittee: Hutto (ch), Rose, Shoopman

H 3309 Joint Resolution, By Erickson, Herbkersman, Pinson, Bedingfield, Brady, Chalk, Bowen, Bowers, Funderburk, Hearn, Horne, Hutto, Long, Nanney, Simrill and A.D. Young A JOINT RESOLUTION TO CREATE A STUDY COMMITTEE TO EXAMINE ALL POLICY, PLANNING, AND SERVICE DELIVERY ISSUES AFFECTING CHILDCARE SERVICES AVAILABLE TO WORKING PARENTS IN THIS STATE, TO PROVIDE FOR THE STUDY COMMITTEE'S MEMBERSHIP, AND TO REQUIRE THE STUDY COMMITTEE TO REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2010, AT WHICH TIME THE STUDY COMMITTEE IS ABOLISHED. [View full text](#) 01/27/09 House Introduced and read first time **01/27/09 House Referred to Committee on Medical, Military, Public and Municipal Affairs.**

H 3230 General Bill, By E.H. Pitts A BILL 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; [View full text](#) 01/13/09 House Introduced and read first time 01/13/09 House Referred to Committee on Education and Public Works 01/28/09 House Recalled from Committee on Education and Public Works 01/28/09 House Referred to Committee on Judiciary. **Currently in the Criminal Law sub-committee of the House judiciary. Chairman Keith Kelly. Scheduled for hearings twice and cancelled by the Chairman.**

S 0348 KENDRA'S LAW General Bill, By Fair, Sheheen, S. Martin, Lourie, Shoopman and Knotts Similar ([H 3436](#)) A BILL TO AMEND SECTION 16-3-95, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INFLICTION OF GREAT BODILY INJURY UPON A CHILD, SO AS TO PROVIDE A MINIMUM TERM OF IMPRISONMENT OF TWO YEARS FOR A PERSON WHO IS CONVICTED OF THIS OFFENSE AND WHO IS REGISTERED WITH OR LICENSED BY THE DEPARTMENT OF SOCIAL SERVICES PURSUANT TO CHILDCARE FACILITIES LICENSURE REQUIREMENTS; TO PROVIDE THAT NO PORTION OF THE SENTENCE MAY BE SUSPENDED; AND BY ADDING SECTION 63-13-825 SO AS TO REQUIRE FAMILY CHILDCARE OPERATORS AND CAREGIVERS ANNUALLY TO COMPLETE A MINIMUM OF TWO HOURS OF TRAINING APPROVED BY THE DEPARTMENT OF SOCIAL SERVICES. **This bill has been placed at the back of the calendar of the Senate by a minority report attached by Senator Brad Hutto of Orangeburg. Further information on WWW.SCCVC.org & www.JusticeforKendra.com.**

H 3798 General Bill, By Bannister, Harrison and King A BILL TO AMEND SECTION 17-15-15, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPOSIT OF A CASH PERCENTAGE INSTEAD OF A BOND, **ASSIGNMENT OF THE DEPOSIT, AND RESTITUTION TO THE VICTIM**, SO AS TO PROVIDE FOR THE DEPOSIT OF A CASH AMOUNT BY THE DEFENDANT THROUGH AN ACCOMMODATION BONDSMAN, TO INCREASE THE CASH AMOUNT PERCENTAGE TO NOT LESS THAN TWENTY-FIVE PERCENT, AND TO REQUIRE THE ACCOMMODATION BONDSMAN TO PAY A HANDLING FEE TO THE CLERK OF COURT EQUAL TO FOUR PERCENT OF THE AMOUNT OF THE BOND SET. 03/26/09 House Introduced and read first time 03/26/09 House Referred to Committee on Judiciary 05/14/09 House Members) request name added as sponsor: King 05/14/09 House Recalled from Committee on Judiciary 05/20/09 House Debate adjourned 05/21/09 House Debate adjourned **Currently awaiting debate on House Floor in January.**

2009 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:

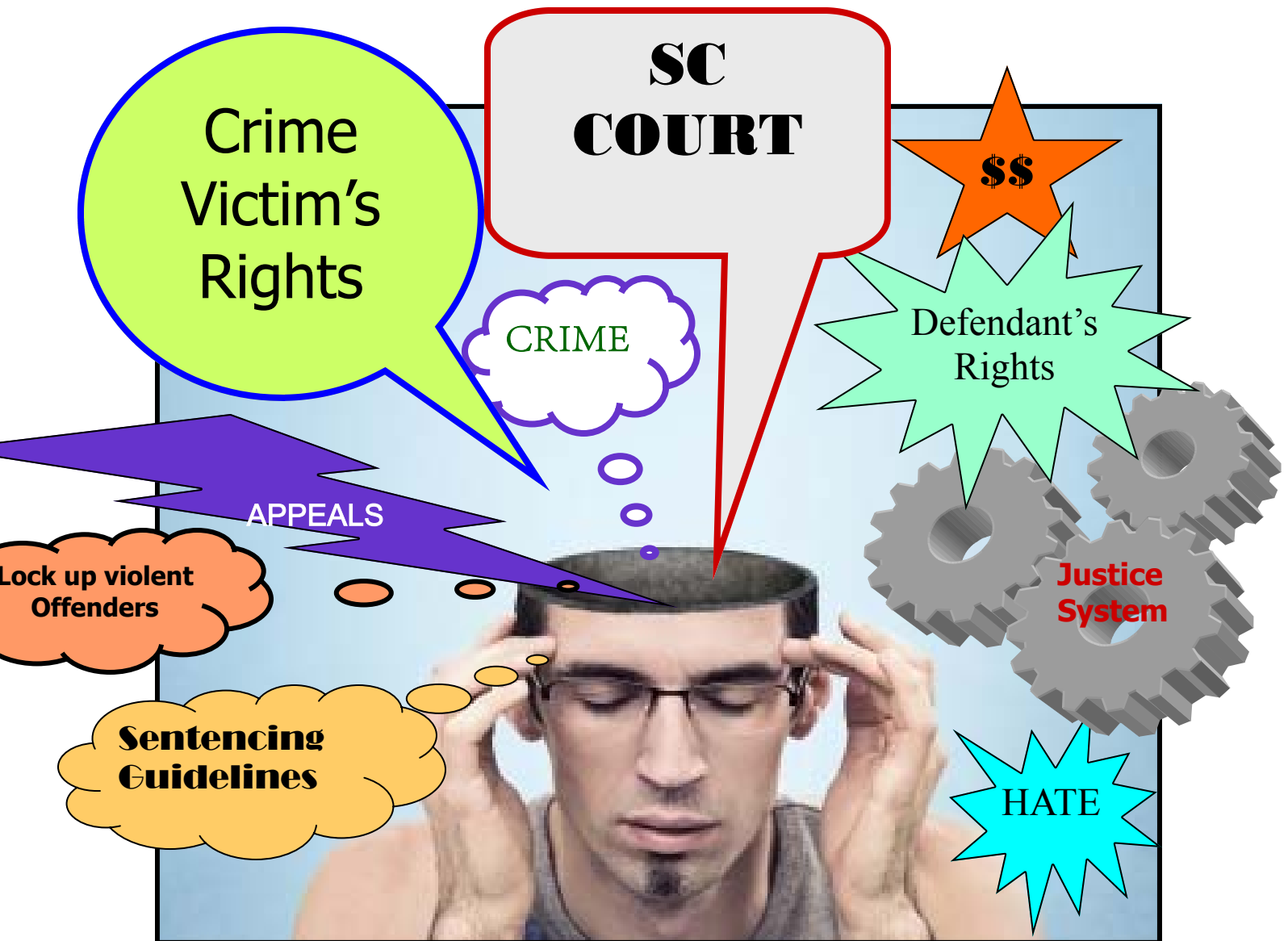
Laura Hudson: General Law Issues / (803) 413-5040 LauraHudson@sccvc.org

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 / (864) 681-0377 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.



COURT WATCH

On May 18th 2009 after submission of full briefs and conduct of oral argument, the Supreme Court of South Carolina issued an unpublished opinion in which it dismissed as improvidently granted, it's formerly issued Writ of Certiorari in the case of The State v. Theresa Claypoole. Opinion #26652.

This action effectively upholds the Court of Appeals previously issued opinion in **State v. Claypoole, 371 S.C. 473, 639 S.E.2d 466 S.C.App.,2006**. The Court of Appeals decision is significant because it **establishes in South Carolina, in cases of child molestation, a responsibility for a parent to report their spouse if the parent is made aware of the abuse**. Otherwise that parent can be charged as an accessory for allowing it to continue.

The defendant in this case, Teresa Claypoole, knowingly allowed her husband, Kermit, a registered sex offender, to reside with her two underage daughters from a prior marriage. The custody of the daughters had been granted to their birth father in Michigan and the girls had runaway to live with Teresa whom they regarded as more permissive. Kermit was her 1st and 4th husband and during the term of their first marriage he had been convicted of sexually molesting two (7) year old girls. It was not until Kermit's release from a 15 year prison term that she remarried him.

Soon after the daughters arrival they revealed to the mother that Kermit was making sexual advances towards them. She counseled them that it was alright, that Kermit would teach them the joys of sex, and informed them "if it felt good do it". The (13) year old acquiesced which resulted in her pregnancy. Teresa allowed the relationship to continue and encouraged it as good training for the daughter to prepare for marriage someday.

When law enforcement sources learned of the girls location they were taken into protective custody and pregnancy was discovered. A DNA test established Kermit's paternity of the infant born to the daughter and Kermit after a trial received a life without parole sentence.

Teresa who was employed as a pediatric nurse desired to continue work in that field. She was charged with and convicted, by a Lexington County jury, of being an Accessory Before the Fact to Criminal Sexual Conduct With a Minor 2nd Degree. She received a probationary sentence of five years and was ordered not to be placed on the sex offender registry but was to receive counseling.

She then filed an appeal and the previously mentioned opinions were issued.

Training

The South Carolina Victim Assistance Academy held it's third annual training at Brookland Banquet & Conference Center in West Columbia May 31-June 5. **SC Criminal Justice Academy** The 2009 SCVAA is considered by the South Carolina Criminal Justice Academy to be continuing education training. Certified officers who attended the Academy will be credited 28 hours of the required training. **Office of Victim Services Education and Certification.** The Office of the Governor - OVSEC will count the 2009 SCVAA as 12 hours of continuing education training or 15 hours of basic core training for Victim Service Providers. For more information please visit the [OVSEC](#) site. **Academic Credit** MUSC is pleased to be able to offer 3.0 hours of academic credit at both the graduate and undergraduate level.



ANNE SEYMOUR doing her usual goofy things at the Academy while teaching good things





Senator Jake Knotts teases Senator Gerald Malloy, Chairman of the Sentencing Reform Commission while Judge William Keesley and Solicitor Kevin Brackett look on

The Sentencing Reform Commission was created Pursuant to Act 407 of the 2007-2008 Legislative Session, the primary duty of the South Carolina Sentencing Reform Commission is to prepare a comprehensive report that reviews and recommends: (1) appropriate changes to current sentencing guidelines for all offenses for which a term of imprisonment of more than one year is allowed; (2) maintaining, amending, or abolishing the current parole system; and (3) guidelines for legislation for offenders for



**Members of the Sentencing Reform Commission
May of 2008**

From left to right: Bonnie Goldsmith, House
of Representatives; Senator Gerald Malloy
Katherine Wells, Senate Attorney; Sen
Stephanie Nye, law cle
& DC
Rep. Keith Kelly & DC

whom traditional imprisonment is not considered appropriate. The Commission is made up of three Judges, three Senators, three House members and Jon Ozmint (DOC) and they have met several times since the end of the session.

**SOUTH CAROLINA SENTENCING REFORM COMMISSION
Members and Staff**

Members:

Senate Appointees: Senator Gerald Malloy, Chair;

Senator John M. "Jake" Knotts, Jr.

Senator George E. "Chip" Campsen III

House of Representatives Appointees:

Representative G. Murrell Smith, Jr., Co-Chair

Representative Douglas Jennings, Jr.

Representative R. Keith Kelly

Judiciary Appointees:

Justice Donald W. Beatty

Judge Aphrodite K. Konduras

Judge William P. Keesley

Governor's Appointee:

Jon Ozmint, Director, South Carolina Department of Corrections

Staff:

Senate Staff:

J. J. Gentry, Staff Attorney

Katherine Wells, Staff Attorney

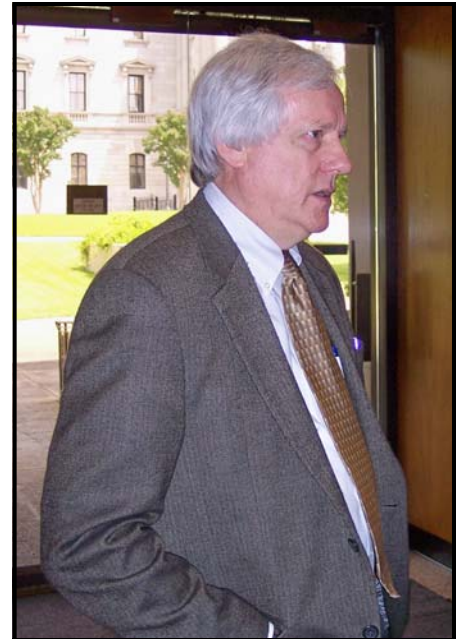
House of Representatives Staff:

Bonnie Goldsmith, Staff Attorney

Judiciary Staff:

Brook Andrews, Staff Attorney

Stephanie Nye, Staff Attorney



Judge William Keesley at the Sentencing Reform Commission Gressette Building

The Commission has divided themselves into three working groups: **Work Group 1:** Justice Beatty, Representative M. Smith, Director Ozmint-J.J. Gentry, staff; John Speir, consultant: Appropriate changes to current sentencing guidelines for all offenses for which a term of imprisonment for more than one year is allowed. **Work Group 2:** Judge Konduras, Senator Knotts, and Representative Jennings- Bonnie Goldsmith, staff; Judy Sachwald, consultant: Maintaining, amending, or abolishing the current parole system. **Work Group 3:** Judge Keesley, Senator Campsen, and Representative Kelly- Brook Andrews, staff; Kristy Danford, consultant: Guidelines for legislation for offenders for whom traditional imprisonment is not considered appropriate.

Commission listen to testimony in this year.

House Attorney; Rep. Murrell Smith, House Attorney; JJ Gentry, Senate Attorney; Senator Jake Knotts; Judge Bill Keesley; Mark for Chief Justice Toal; DOC Director Jon Ozmint



A Crime Victim's Roundtable was assembled June 25 at MUSC by Anne Seymour and Laura Hudson...some of those issues were presented at the retreat to the commission:

Presentation by Anne Seymour
South Carolina Sentencing Reform Commission Retreat
June 26, 2009
Charleston, SC

I have been a national victim advocate for 26 years, with a great deal of my work focusing on victim services in corrections. I am also a member of the District of Columbia Sentencing Commission. From my personal experience, members of my family have been victims of both interpersonal violence and stranger crimes, and I have family members who are currently guests of the California Department of Corrections. I want to bring these perspectives – along with my work in six states with the Pew Public Safety Performance Project, and the findings from a Roundtable we held yesterday with victims, survivors and advocates – to your discussion today.

But first, it's critical to understand that South Carolina has *always* been a leader in crime victims' rights and services. You were the first state to implement a victim services program in probation and parole. You were the second state to create a victim assistance program in institutional corrections. And South Carolina was among the pioneering states to imbed victims' rights in your state constitution.

Funding

Like most states, lack of funding is driving sentencing and correctional reform in South Carolina. There is simply not enough money for correctional agencies to do their jobs, and it's important to note that victim service programs are in the same boat. It's also important to remember that when compared to correctional spending, funding for victim services is not merely "a drop in the bucket" – it's "a drop in the ocean." So I ask you to keep this in mind as you make decisions related to justice funding for the future.

The Current Sentencing System in South Carolina

The current sentencing scheme is very confusing to victims and likely to anyone trying to understand it. You would have to budget for funding for PhDs for victims to learn research, statistics and analysis to be able to interpret how decisions are made. Simplicity is important to victims, who need to know – for their own safety and peace of mind – when they can expect that the person who hurt them will be considered for release from incarceration, and what their role is in parole decisions.

It is also of interest to victims and survivors to have the data that Dr. Speir mentioned earlier, which can provide information that compares the original indictment data with the offenses that offenders plead to, and the actual crimes of conviction. These are often two very different types of offenses, and the cumulative data reflecting statewide trends would be useful information for victims and the public.

Victims' and Survivors' Most Important Needs and Concerns Relevant to Sentencing

Yesterday, 15 victims, survivors and advocate met to address this issue. While the handout (*attachment*) highlights 15 key issues, our discussions can be summarized into five categories:

1. **Information:** Victims need information about the sentence and what it means in terms of the length of incarceration and any community supervision to follow; the status of their case, and the ongoing status of the offender; and about their specific rights under law that are specific to sentencing and corrections (including notification, restitution, protection and victim impact statements).
2. **Safety:** Many victims have *actual fears* resulting from the actions of the offender, while others have *perceived fears* that result from the ongoing and often intense trauma of victimization. By keeping victims informed of their rights and engaged in the processes related to their case and offender, and by offering them any protective measures they request, South Carolina can take a big step in identifying and addressing victims' safety concerns.
3. **Victim impact statements:** In a state where pre-sentence investigations are seldom utilized, victim impact statements take on extraordinary importance. They allow the victim to discuss what happened during and after the crime; its impact and how it affected them and their loved ones; and what they would like to see happen as a case outcome. We have to always remember that without victims reporting crimes and cooperating as witnesses, you would *not* have a criminal justice system to reform. And without PSIs, victim impact statements offer valuable information that can be useful in improving offender case management and rehabilitation, by providing information about what actually happened, how it affected the persons harmed, and the victim's recommendations for offender accountability.
4. **Enforcement of laws:** Yesterday, there was significant discussion among Roundtable participants about their feelings that many current laws on the books are *not* being adequately enforced. This addressed the context of violations of probation and parole, which they felt seldom led to revocation even in cases of serious violations; and in violations of victims' statutory and constitutional rights. Today, there are 33,000 victims' rights laws on the books, but many fall by the wayside through negligence, or through paying more attention to alleged and convicted offenders' rights, as opposed to those of their victims. I always quote my friend Nell Myers from Texas, whose daughter was murdered, who said: "Just about the only right crime victims have is to be present at the commission of the crime." That is clearly how some victims in South Carolina feel today.
5. **Accountability:** Roundtable participants strongly agreed that we need to do more – as a justice system and as a society – to hold offenders accountable for their actions, to their victims, their communities, their own families and themselves.

Risk Assessment

Another goal of the Roundtable yesterday was to identify whether or not victims and those who serve them understand how offenders are assessed for risk. This knowledge is very important, as key decisions relevant to victim and public safety are made based upon such assessments.

Similar to the other five states in which I have worked for Pew, it's clear that victims and advocates do *not* understand the risk assessment process, instruments, and decision-making.

This is an important area I would like to examine in greater depth on behalf of my work for Pew. Victims need to understand the risk assessment process so they understand how and why certain decisions are made. I would also like to examine why most general risk assessment tools contain *no questions* related to victim/offender relationship, access to past or potential victims, and/or victim safety concerns. While these three issues are addressed in the Static 99 tool for sex offenders, and domestic violence risk assessments (both currently utilized in South Carolina), they are nowhere to be found in standardized general offender risk assessments. Whatever work we accomplish on this important issue will be shared in the future with your Commission.

Conclusion

I'd like to end today by going back to the beginning of your session, when Chief Justice Toal noted that South Carolina currently has a "hodgepodge approach to justice." It is this very approach that is confusing and frustrating to victims, and I want you to know that you have very strong support from South Carolina victims and survivors, and those who serve them, to change this approach. Justice Toll also said that South Carolina has "no clear goals on sentencing." When you consider this statement, I ask that you also consider including crime victims and their needs as a primary goal of the important work you do in the future.

Participants in yesterday's Roundtable unanimously want to continue its work to help your Commission, and to ensure that victims' voices remain an integral component of your efforts. I look forward to working with them, and with your Commission, as you move forward on sentencing reform in South Carolina.



Anne Seymour, Senior Advisor
Pew Public Safety Performance
Project annesev@atlantech.net
202 547 1732



JJ Gentry Staff Attorney for the
Sentencing Reform Commission
summarizes some crime victim
suggestions for the Roundtable



Barbara Grissom, Director of Vic-
tim Services Department of Correc-
tions
hobbled in on her crutches to the
Crime Victim's Roundtable discussion

Victim/Survivor and Advocate Roundtable
June 25, 2009
KEY ISSUES AND CONCERNS
(Summary Discussion)

For crimes against children, no plea agreements should be allowed that lose the essence of being a crime against a child.

Reports should be published about the judiciary – who is the “most lenient:”

- Possibly by victim advocacy groups.
- Revise SC Ombudsman reports to include data about complaints by circuit.

When offenders sentenced to probation break the law, they are not always (seldom) revoked – they “let it slide.”

Crimes against children should require mandatory minimums, with no probation.

The costs of alternative sentencing need to recognize that there is a finite amount of funding that requires wise spending. SC can find cheaper ways to incarcerate offenders (Arizona cited as a model).

The sentence of “not guilty by reason of insanity” should be discontinued (perhaps consider “guilty and insane”), and victims’ rights should apply in all NGRI sentences.

If offenders get away with lenient sentences often enough, there is no accountability of the system, or of offenders to victims and communities.

Victims don’t know when the offender is getting out – victims should be informed at sentencing when the earliest possible release date is...Real truth in sentencing.

There is a lack of resources and support for offenders at reentry back into the community.

Consider Middle Court proposal by SC Attorney General Henry McMaster and eliminate parole

Reclassify violent versus non-violent crimes to a third classification of “crimes against a person”
Tentative examples may be (not exhaustive):

- Eliminate the common law crime of ABHAN and create a series of new statutes dealing with CSCHAN, CSCWIK, Already have CDVHAN, CDVWIK, and an assault statute for the common bar brawl
- Reclassify all sex crimes as “crimes against a person”
- Reclassify low level drug offenses as non-violent
- Reclassify Stalking to “crimes against a person”
- Reclassify/ Rewrite Burglary 3 penalties and classification
- Reclassify murder/injury bombs to “crimes against a person
- Reclassify Vulnerable adult statues to “crime against a person”
- Reclassify lewd act to “crimes against a person”

The Roundtable was hosted by MUSC Crime Victim’s Center. Special thanks to Vickie Cornelison of MUSC for all of her hard work in providing for the meeting at very short notice + she provided “goodies” and drinks. Please be mindful of the Commission’s existence + if you have issues that concern you please access the Commissions web site for meeting times and issues <http://www.scstatehouse.gov/html-pages/citizen.html>.



HOME GROWN SOUTHERN DUMMIES

In **Fountain Inn, SC** on December 1, 2008– Greenville County deputies investigated the shooting of a man by an FBI agent at her home on a Friday night.

According to Master Deputy Michael Hildebrand, the female FBI agent heard some ruckus outside her home on Williams Street in Fountain Inn. She went outside to investigate and discovered a man peering into her windows. A scuffle ensued between the agent and the alleged perpetrator. The agent, unable to contain the perp, shot him in the buttocks (grin).

The Greenville County Sheriff deputies arrived at the scene and discovered a 60 year old... Ronnie William Pennington... in the driveway of the FBI agent's home. The perp was charged with peeping and aggravated assault and battery. Perhaps criminals should do "background " checks on their intended victims!

Alabama, Friday, July 10th, 2009 -Never bring a toy gun to a bat fight. A man who tried to rob a store with a fake gun was chased off by a clerk with a very real cricket bat, according to the. The man tried to rob the store with a toy gun, but luckily the clerk had the only cricket bat in the entire state of Alabama. The suspect spotted the bat and worried that he was going to be spanked, he took off without any money and was later arrested.

Kingwood, W.Va. (AP) - Two 18-year-old Waldorf, Maryland, men who allegedly broke into the same West Virginia store twice in the same night were arrested when they were spotted later across the street. Surveillance video shows two people breaking into the store before midnight Sunday and again early Monday morning. Wine coolers, fortified wine and cigarettes were taken from the store in Preston County.

As owners Randy Huggins and his wife were cleaning up after the second break-in, they heard an ATV start outside in a church parking lot across the street. Huggins says he recognized the men from the surveillance video. When they tried to run, he grabbed Michael Christopher Lovy and deputies caught Zachary Scott Mori.

What a bunch of morons!!!!!!

THE NATIONAL CRIME VICTIM LAW & LITIGATION CONFERENCE ATTENDED BY LAURA HUDSON

The National Crime Victim Law Institute at Lewis & Clark Law School held its 8th Annual Crime Victim Law & Litigation Conference : *"The Path To Progress"* June 30-July 1, 2009 at the Benson Hotel in downtown, Portland, Oregon. The weather was glorious and the salmon was incredible. The Conference was, as usual, a professionally presented, well attended, incredibly informative 2 Day event.

Some Highlights:

- Recent **Federal Cases involving victim' rights** by Law Professor Paul G. Cassell (a personal hero) *Paul. G. Cassell is a law professor at the SJ Quinney College of Law at the University of Utah. Professor Cassell served as a US District Court Judge for the District of Utah from 02-07, during which time he issued a number of widely cited opinions involving crime victims' rights. In November 2007, Judge Cassell resigned his judicial position and rejoined the faculty of the College of Law to teach, write on, and litigate issues related to crime victims' rights.*
- A discussion of recent developments in forfeiture by wrongdoing exception to the **Confrontation Clause** by professors Doug Beloof and Tom Lininger: Professor Tom Lininger's Article, *The Sound of Silence: Holding Batterers Accountable for Silencing Their Victims*, can be accessed online at <http://www.texaslrev.com/seealso/volume-87/lininger/>.
- **Protecting Victims' Rights in Child Pornography Cases** / Roundtable moderated by Meg Garvin, JD EX D NCVLI
- **Best practices for Obtaining Full & Timely Restitution** / Keli Luther, JD Senior Attorney, Arizona Voice for Victims & Heidi Nestel, JD EX D, Utah Crime Victim Legal Clinic
- **Maintaining Safety and Security in a Digital Age** / Valenda Applegarth, JD, Senior Attorney, American Civil Liberties Union, Women's Rights Project
- **Human Trafficking and its Intersections with CDV Issues** / Kavitha Sreeharsga, JD, Senior Staff Attorney, Immigrant Women Program
- **Courthouse Dogs: new Partners for Providing Emotional Support** / Ellen O'Neill-Stephens, JD, Senior Deputy Prosecuting Attorney, King County
- **Intersections Between the Civil and Criminal Justice Systems for Victims** / Jeff Dion, JD Deputy Director, National Crime Victim Bar Association
- **Victim Rights to Speak at Parole and Probation Hearings** / Ellen Hanegan-Cruse, MSW, State of Washington Indeterminate Sentence Review Board
- **A Crime Victim's Perspective** / Jenifer Storm, ED, Victim Witness Assistance Program
- **Implementation of the Crime Victims' Rights Act** / Eileen Larence: Director, Homeland Security & Justice / U.S. Government Accountability Office.



Bilenda Harris-Ritter, Attorney at Law California Voice for Victims and newest Crime Victim Law Clinic Director



Meg Garvin, ED of NCVLI and "presenter extraordinary".



Jeff Dion, National Center for Victims of Crime, Randi Ostry-LeHoty, Court of Claims of Ohio & Judge Paul Cassell, College of Law, University of Utah



Good Buddies **Veronica Swain Kunz**, ED of SC Victim Assistance Network & Richard, "Rich" **Pompelio**
New Jersey Crime Victims Law Center



Jason Buffkin of SCVAN giving one of his well known smiles



Meg Garvin ED of NCVLI
Socializing
At the mixer



Doug Beloof of Lewis & Clark
Law School

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 laurahudson1@gmail.com 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

No State or Federal Dollars are used in the production of
any portion of this newsletter

All contributions are tax deductible

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

Those desiring to contribute should consult the web site for deadlines. This edition is
the summer of 2009, the next publication will be Summer of 2010 with an expected
publication date of July 30.

All materials should be submitted in an electronic format to
LauraHudson@SCCVC.org

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