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 1/11/2024 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/852_20231130.docx)

[01/11/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/852_20240111.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56‑5‑2930, RELATING TO OPERATING A MOTOR VEHICLE WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS to amend the penalties to permit a sentence of both a fine and incarceration and to require a convicted person to attend a dui victim impact panel; BY AMENDING SECTION 56‑5‑2933, RELATING TO DRIVING WITH AN UNLAWFUL ALCOHOL CONCENTRATION; to permit a sentence of both a fine and incarceration AND TO REQUIRE A CONVICTED PERSON TO ATTEND A DUI VICTIM IMPACT PANEL; BY AMENDING SECTION 56‑5‑2941, RELATING TO AN IGNITION INTERLOCK DEVICE so as to delete the provision that nothing in the section requires installation of an ignition interlock device prior to the contested case hearing; BY AMENDING SECTION 56‑5‑2945, RELATING TO THE OFFENSE OF FELONY DRIVING UNDER THE INFLUENCE, SO AS to create the offense of felony driving under the influence second degree and establish PENALTIES; BY AMENDING SECTION 56‑5‑2947, RELATING TO CHILD ENDANGERMENT; to include the offenses of reckless vehicular homicide and reckless driving as violations subject to a charge of child endangerment; BY AMENDING SECTION 56‑5‑2950, RELATING TO IMPLIED CONSENT TO TESTING FOR ALCOHOL OR DRUGS; to provide that an arresting officer is not required to offer a breath test to a suspect whom he has reasonable suspicion is under the influence of drugs other than alcohol, and to provide that laboratory technicians, phlebotomists, and emergency medical technicians may obtain blood or urine samples; BY AMENDING SECTION 56‑5‑2951, RELATING TO SUSPENSION OF A LICENSE FOR REFUSAL TO SUBMIT TO TESTING OR FOR CERTAIN LEVEL OF ALCOHOL CONCENTRATION, SO AS to provide that a person issued a license suspension may install an IGNITION INTERLOCK DEVICE within thirty days and obtain a temporary driver’s LICENSE with an ignition interlock restriction, and to provide that a person who refuses to submit to a chemical test must have his driver’s license suspended for one year for a first offense, and to provide increased suspensions for subsequent offenses, or if a person takes the tests and registers an alcohol concentration of over fifteen one‑hundredth of one percent or more, that his license is suspended for two months; BY AMENDING SECTION 56‑5‑2953, RELATING TO INCIDENT SITE AND BREATH TEST SITE VIDEO RECORDING, SO AS TO PROVIDE THAT nothing in this section may be construed to compel or authorize a dismissal of a dui offense if the officer substantially complies with the statute and that motions for suppression of evidence under the statute must be made prior to jeopardy attaching; BY AMENDING SECTION 56‑5‑2920, RELATING TO RECKLESS DRIVING, SO AS to CREATE the offense of felony reckless driving with great bodily injury and to establish PENALTIES; BY ADDING SECTION 56‑5‑2960 to provide that a person convicted of felony driving under the influence causing the death or disability of a parent or guardian, that the defendant may be ordered to pay child support as restitution for the duration of any probation ordered; BY AMENDING SECTION 56‑1‑286, RELATING TO SUSPENSION OF A LICENSE OR PERMIT OR DENIAL OF ISSUANCE OF A LICENSE OR PERMIT TO PERSONS UNDER THE AGE OF TWENTY‑ONE WHO DRIVE MOTOR VEHICLES WITH A CERTAIN AMOUNT OF ALCOHOL CONCENTRATION, SO AS to provide that a person issued a notice of suspension may obtain a temporary license with an ignition interlock restriction; AND BY AMENDING SECTION 56‑1‑400, RELATING TO SURRENDER OF LICENSE, SO AS to remove the provision that nothing in this section requires a person to obtain an ignition interlock unless an offense is alcohol related.

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

SECTION 1. Sections 56‑5‑2930(A) and (H) of the S.C. Code is amended to read:

 (A) It is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired, under the influence of any other drug or a combination of other drugs or substances which cause impairment to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired, or under the combined influence of alcohol and any other drug or drugs or substances which cause impairment to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired. A person who violates the provisions of this section is guilty of the offense of driving under the influence and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows:

 (1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty‑eight hours nor more than thirty days, or both. However, in lieu of the forty‑eight hour minimum imprisonment, the court may provide for forty‑eight hours of public service employment. The minimum forty‑eight hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum forty‑eight hour sentence. If the person's alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by a fine of five hundred dollars or imprisonment for not less than seventy‑two hours nor more than thirty days, or both. However, in lieu of the seventy‑two hour minimum imprisonment, the court may provide for seventy‑two hours of public service employment. The minimum seventy‑two hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum sentence. If the person's alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days, or both. However, in lieu of the thirty‑day minimum imprisonment, the court may provide for thirty days of public service employment. The minimum thirty days imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment instead of the thirty‑day minimum sentence. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, a first offense charged for this item may be tried in magistrates court;

 (2) for a second offense, by a fine of not less than two thousand one hundred dollars nor more than five thousand one hundred dollars, and imprisonment for not less than five days nor more than one year. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person's alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by a fine of not less than two thousand five hundred dollars nor more than five thousand five hundred dollars and imprisonment for not less than thirty days nor more than two years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person's alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by a fine of not less than three thousand five hundred dollars nor more than six thousand five hundred dollars and imprisonment for not less than ninety days nor more than three years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars;

 (3) for a third offense, by a fine of not less than three thousand eight hundred dollars nor more than six thousand three hundred dollars, and imprisonment for not less than sixty days nor more than three years. If the person's alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by a fine of not less than five thousand dollars nor more than seven thousand five hundred dollars and imprisonment for not less than ninety days nor more than four years. If the person's alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by a fine of not less than seven thousand five hundred dollars nor more than ten thousand dollars and imprisonment for not less than six months nor more than five years; or

 (4) for a fourth or subsequent offense, by imprisonment for not less than one year nor more than five years. If the person's alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by imprisonment for not less than two years nor more than six years. If the person's alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by imprisonment for not less than three years nor more than seven years.

 (H) A person convicted of violating this section, whether for a first offense or subsequent offense, must enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services and the judge may order participation in a DUI victim impact panel operated by an IRS classified 501(c)(3) non‑profit organization approved by the Department of Motor Vehicles, which may include online victim impact panels if approved by the Department. An assessment of the extent and nature of the alcohol and drug abuse problem of the applicant must be prepared and a plan of education or treatment, or both, must be developed for the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant successfully has completed the services. The applicant must attend the first Alcohol and Drug Safety Action Program available after the date of enrollment. The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services for each certified Alcohol and Drug Safety Action Program. The maximum fee for enrollment in the DUI victim impact panel shall not exceed seventy‑five dollars subject to annual percentage increases not to exceed increases in the Consumer Price Index as reported by the Department of Labor Statistics, Consumer Price Index for South Carolina after year 2026. An applicant may not be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant has successfully completed services. An applicant who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the applicant successfully has completed services. The court must be notified whether an offender failed to enroll in a certified program within thirty days or failed to participate in the plan of education or treatment. The court may hold the individual in contempt of court if the individual cannot show cause as to why no enrollment occurred within the mandated thirty days or why no progress has been made on the plan of education or treatment.

SECTION 2. Sections 56‑5‑2933(A) and (H) of the S.C. Code is amended to read:

 (A) It is unlawful for a person to drive a motor vehicle within this State while his alcohol concentration is eight one‑hundredths of one percent or more. A person who violates the provisions of this section is guilty of the offense of driving with an unlawful alcohol concentration and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows:

 (1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty‑eight hours nor more than thirty days, or both. However, in lieu of the forty‑eight hour minimum imprisonment, the court may provide for forty‑eight hours of public service employment. The minimum forty‑eight hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum forty‑eight hour sentence. If the person's alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by a fine of five hundred dollars or imprisonment for not less than seventy‑two hours nor more than thirty days, or both. However, in lieu of the seventy‑two hour minimum imprisonment, the court may provide for seventy‑two hours of public service employment. The minimum seventy‑two hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum sentence. If the person's alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days, or both. However, in lieu of the thirty‑day minimum imprisonment, the court may provide for thirty days of public service employment. The minimum thirty days imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment instead of the thirty‑day minimum sentence. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, a first offense charged for this item may be tried in magistrates court;

 (2) for a second offense, by a fine of not less than two thousand one hundred dollars nor more than five thousand one hundred dollars, and imprisonment for not less than five days nor more than one year. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person'’s alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by a fine of not less than two thousand five hundred dollars nor more than five thousand five hundred dollars and imprisonment for not less than thirty days nor more than two years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person'’s alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by a fine of not less than three thousand five hundred dollars nor more than six thousand five hundred dollars and imprisonment for not less than ninety days nor more than three years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars;

 (3) for a third offense, by a fine of not less than three thousand eight hundred dollars nor more than six thousand three hundred dollars, and imprisonment for not less than sixty days nor more than three years. If the person'’s alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by a fine of not less than five thousand dollars nor more than seven thousand five hundred dollars and imprisonment for not less than ninety days nor more than four years. If the person'’s alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by a fine of not less than seven thousand five hundred dollars nor more than ten thousand dollars and imprisonment for not less than six months nor more than five years; or

 (4) for a fourth or subsequent offense, by imprisonment for not less than one year nor more than five years. If the person'’s alcohol concentration is at least ten one‑hundredths of one percent but less than sixteen one‑hundredths of one percent, then the person must be punished by imprisonment for not less than two years nor more than six years. If the person'’s alcohol concentration is sixteen one‑hundredths of one percent or more, then the person must be punished by imprisonment for not less than three years nor more than seven years.

 (H) A person convicted of violating this section, whether for a first offense or subsequent offense, must enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services and the judge may order participation in a DUI victim impact panel operated by an IRS classified 501(c)(3) non‑profit organization approved by the Department of Motor Vehicles, which may include online victim impact panels approved by the Department of Motor Vehicles. An assessment of the extent and nature of the alcohol and drug abuse problem of the applicant must be prepared and a plan of education or treatment, or both, must be developed for the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant successfully has completed the services. The applicant must attend the first Alcohol and Drug Safety Action Program available after the date of enrollment. The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant'’s plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services for each certified Alcohol and Drug Safety Action Program. The maximum fee for enrollment in the DUI victim impact panel shall not exceed seventy‑five dollars subject to annual percentage increases not to exceed increases in the Consumer Price Index as reported by the Department of Labor Statistics, Consumer Price Index for South Carolina after year 2026. An applicant may not be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant successfully has completed services. An applicant who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the applicant successfully has completed services. The court must be notified whether an offender failed to enroll in a certified program within thirty days or failed to participate in the plan of education or treatment. The court may hold the individual in contempt of court if the individual cannot show cause as to why no enrollment occurred within the mandated thirty days or why no progress has been made on the plan of education or treatment.

SECTION 3. Section 56‑5‑2941(A) of the S.C. Code, as previously amended, is further amended to read:

 (A)(1) The Department of Motor Vehicles shall require a person who is convicted of violating the provisions of Sections 56‑5‑2930, 56‑5‑2933, 56‑5‑2945, 56‑5‑2947 except if the conviction was for Section 56‑5‑750, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or who is issued a temporary alcohol license pursuant to Section 56‑1‑286 or 56‑5‑2951, to have installed on any motor vehicle the person drives, except a moped or motorcycle, an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This requirement shall not apply to a person who submitted to a breath test pursuant to Section 56‑5‑2950 and had an alcohol concentration of .00 one‑hundredths of one percent convicted of a first offense violation of Section 56‑5‑2930 or 56‑5‑2933, unless the person submitted to a breath test pursuant to Section 56‑5‑2950 and had an alcohol concentration of fifteen one‑hundredths of one percent or more.

 (2) The department may waive the requirements of this section if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed device. If the department grants a medical waiver, the department shall suspend the person’s driver’s license for the length of time that the person would have been required to hold an ignition interlock restricted license. The department may withdraw the waiver at any time that the department becomes aware that the person’s medical condition has improved to the extent that the person has become capable of properly operating an installed device.

 (3) The department also shall require a person who has enrolled in the Ignition Interlock Device Program in lieu of the remainder of a driver’s license suspension, denial of license to operate a vehicle as an habitual offender pursuant to Section 56‑1‑1090, or denial of the issuance of a driver’s license or permit to have an ignition interlock device installed on any motor vehicle the person drives, except a moped or motorcycle.

 (4) The length of time that a device is required to be affixed to a motor vehicle is set forth in Section 56‑1‑286; 56‑1‑1090; 56‑5‑2945; 56‑5‑2951; 56‑5‑2990; or 56‑5‑2947, except if the conviction was for Section 56‑5‑750.

 (5) Nothing in this section shall be construed to require installation of an ignition interlock device until the suspension is upheld at a contested case hearing or the contested hearing is waived.

SECTION 4. Section 56‑5‑2945 of the S.C. Code is amended to read:

 Section 56‑5‑2945. (A) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle 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 bodily injury to another person or damage to real or personal property of another valued at over one thousand dollars, is guilty of the offense of felony driving under the influence, second degree, and, upon conviction, must be punished:

 (1) by a mandatory fine of not less than two thousand dollars nor more than five thousand dollars and mandatory imprisonment for not less than ten days nor more than five years, for a first offense;

 (2) by a mandatory fine of not less than three thousand dollars nor more than six thousand dollars and mandatory imprisonment for not less than ninety days nor more than ten years, for a second offense. A conviction for either felony driving under the influence, first degree, or felony driving under the influence, second degree, is considered a prior offense pursuant to this subsection;

(A)(B) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle 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 another person, is guilty of the offense of felony driving under the influence, first degree, and, upon conviction, must be punished:

 (1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty ninety days nor more than fifteen years when great bodily injury results;

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

 (C) A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion.

 (B)(D) As used in this section, “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.

 (C)(E)(1) The Department of Motor Vehicles shall suspend the driver’s license of a person who is convicted pursuant to this section. For suspension purposes of this section, convictions arising out of a single incident must run concurrently.

 (2) After the person is released from prison, the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56‑5‑2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56‑1‑400. The ignition interlock device is required to be affixed to the motor vehicle for three years when great bodily injury results and five years when a death occurs.

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

SECTION 5. Section 56‑5‑2947(A) of the S.C. Code is amended to read:

 (A) A person eighteen years of age or older is guilty of child endangerment when:

 (1) the person violates:

 (a) Section 56‑5‑750;

 (b) Section 56‑5‑2910;

 (c) Section 56‑5‑2920;

 (b)(d) Section 56‑5‑2930;

 (c)(e) Section 56‑5‑2933; or

 (d)(f) Section 56‑5‑2945; and

 (2) the person has one or more passengers younger than sixteen years of age in the motor vehicle when the violation occurs.

 If more than one passenger younger than sixteen years of age is in the vehicle when a violation occurs, the person may be charged with only one violation of this section.

SECTION 6. Section 56‑5‑2950 of the S.C. Code is amended to read:

 Section 56‑5‑2950. (A) A person who drives a motor vehicle in this State is considered to have given consent to chemical tests of the person’s breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or the combination of alcohol and drugs, if arrested for an offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs. A breath , blood, or urine test must be administered at the direction of a law enforcement officer who has arrested a person for driving a motor vehicle in this State while under the influence of alcohol, drugs, or a combination of alcohol and drugs.

 (1) If the officer has reasonable suspicion to believe the person is under the influence of alcohol, At at the direction of the arresting officer, the person first must be offered a breath test to determine the person’s alcohol concentration. If the person is physically unable to provide an acceptable breath sample because the person has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by the licensed medical personnel, the arresting officer may request a blood sample to be taken. If the officer has reasonable suspicion that the person is under the influence of drugs other than alcohol, or is under the influence of a combination of alcohol and drugs, the officer may order that a urine sample be taken for testing. A breath sample taken for testing must be collected within two hours of the arrest. Any additional tests to collect other samples must be collected within three hours of the arrest. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to SLED policies. Before the breath test is administered, an eight one‑hundredths of one percent simulator test must be performed and the result must reflect a reading between 0.076 percent and 0.084 percent.

 (2) If the officer has reasonable suspicion that the person is under the influence of drugs other than alcohol, or is under the influence of a combination of alcohol and drugs, the officer may order that a urine sample be taken for testing or may seek a search warrant to obtain a blood sample. Blood and urine samples must be obtained by a licensed physicianphysicians licensed by the State Board of Medical Examiners, registered nurses nurse licensed by the State Board of Nursing, laboratory technician, certified phlebotomist, emergency medical technician, and or other medical personnel trained and certified to obtain the samples in a licensed medical facility. Blood and urine samples must be obtained and handled in accordance with procedures approved by SLED and may be collected anywhere that the medical personnel determines is safe and reasonable. Samples must be collected within three hours of the arrest.

 (3) Nothing in this section shall be construed to prohibit law enforcement from seeking a search warrant to obtain a blood or urine sample or both.

 (B) No tests may be administered or samples obtained unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

 (1) the person does not have to take the test or give the samples, but that the person’s privilege to drive must be suspended or denied for at least six months one year with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person refuses to submit to the test, and that the person’s refusal may be used against the person in court;

 (2) the person’s privilege to drive must be suspended for at least one month two months with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person takes the test or gives the samples and has an alcohol concentration of fifteen one‑hundredths of one percent or more;

 (3) the person has the right to have a qualified person of the person’s own choosing conduct additional independent tests at the person’s expense;

 (4) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and

 (5) if the person does not request a contested case hearing or if the person’s suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

 (C) A hospital, physician, qualified technician, chemist, phlebotomist, emergency medical technician, or registered nurse who obtains the samples or conducts the test or participates in the process of obtaining the samples or conducting the test in accordance with this section is not subject to a cause of action for assault, battery, or another cause alleging that the drawing of blood or taking samples at the request of the arrested person or a law enforcement officer was wrongful. This release from liability does not reduce the standard of medical care required of the person obtaining the samples or conducting the test. This qualified release also applies to the employer of the person who conducts the test or obtains the samples.

 (D) The person tested or giving samples for testing may have a qualified person of the person’s own choosing conduct additional tests at the person’s expense and must be notified in writing of that right. A person’s request or failure to request additional blood or urine tests is not admissible against the person in the criminal trial. The failure or inability of the person tested to obtain additional tests does not preclude the admission of evidence relating to the tests or samples obtained at the direction of the law enforcement officer.

 (E) The arresting officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance, at a minimum, includes providing transportation for the person to the nearest medical facility which performs blood tests to determine a person’s alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood sample to determine the person’s alcohol concentration, SLED shall test the blood sample and provide the result to the person and to the arresting officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding. The arresting officer is not required to provide affirmative assistance if the person refuses to provide the requested sample provided for by subsection (A).

 SLED shall administer the provisions of this subsection and shall make regulations necessary to carry out this subsection’s provisions. The costs of the tests administered at the direction of the law enforcement officer must be paid from the state’s general fund. However, if the person is subsequently convicted of violating Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, then, upon conviction, the person shall pay twenty‑five dollars for the costs of the tests. The twenty‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

 (F) A qualified person who obtains samples or administers the tests or assists in obtaining samples or the administration of tests at the direction of a law enforcement officer is released from civil and criminal liability unless the obtaining of samples or tests is performed in a negligent, reckless, or fraudulent manner. No person may be required by the arresting officer, or by another law enforcement officer, to obtain or take any sample of blood or urine.

 (G) In the criminal prosecution for a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945 the alcohol concentration at the time of the test, as shown by chemical analysis of the person’s breath or other body fluids, gives rise to the following:

 (1) if the alcohol concentration was at that time five one‑hundredths of one percent or less, it is conclusively presumed that the person was not under the influence of alcohol;

 (2)(1) if the alcohol concentration was at that time in excess of five one‑hundredths of one percent but less than eight one‑hundredths of one percent, this fact does not give rise to any inference that the person was or was not under the influence of alcohol, but this fact may be considered with other evidence in determining the guilt or innocence of the person; or

 (3)(2) if the alcohol concentration was at that time eight one‑hundredths of one percent or more, it may be inferred that the person was under the influence of alcohol.

 The provisions of this section must not be construed as limiting the introduction of any other evidence bearing upon the question of whether or not the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

 (H) A person who is unconscious or otherwise in a condition rendering the person incapable of refusal is considered to be informed and not to have withdrawn the consent provided by subsection (A) of this section.

 (I)(H) A person required to submit to tests by the arresting law enforcement officer must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any trial or other proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of such tests to the officer before a trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

 (J)(I) Policies, procedures, and regulations promulgated by SLED may be reviewed by the trial judge or hearing officer on motion of either party. The failure to follow policies, procedures, and regulations, or the provisions of this section, shall result in the exclusion from evidence of any test results, if the trial judge or hearing officer finds that this failure materially affected the accuracy or reliability of the test results or the fairness of the testing procedure and the court trial judge or hearing officer rules specifically as to the manner in which the failure materially affected the accuracy or reliability of the test results or the fairness of the procedure.

 (K)(J) If a state employee charged with the maintenance of breath testing devices in this State and the administration of breath testing policy is required to testify at a contested case hearing or court proceeding, the entity employing the witness may charge a reasonable fee to the defendant for such services.

SECTION 7. Section 56‑5‑2951 of the S.C. Code, as previously amended, is further amended to read:

 Section 56‑5‑2951. (A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to, a person who drives a motor vehicle and refuses to submit to a test provided for in Section 56‑5‑2950 or has an alcohol concentration of fifteen one‑hundredths of one percent or more. The arresting officer shall issue a notice of suspension which is effective beginning on the date of the alleged violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945.

 (B)(1) Within thirty days of the issuance of the notice of suspension, the person may:

 (a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure;

 (b) enroll in the Ignition Interlock Device Program pursuant to Section 56‑5‑2941; or

 (c) obtain a temporary alcohol license with an ignition interlock device restriction pursuant to Section 56‑1‑400 from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license and such fee must be held in trust by the Department of Motor Vehicles until final disposition of any contested case hearing. Should the temporary suspension provided for in this subsection be upheld during the contested case hearing, twenty‑five dollars of the fee must be distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment, while the remaining seventy‑five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57‑11‑20, to be distributed as provided in Section 11‑43‑167. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the contested case hearing provided for in subsection (F), this section or the final decision or disposition of the matter. If the suspension is upheld at the contested case hearing, the temporary alcohol license remains in effect until the Office of Motor Vehicle Hearings issues the hearing officer's decision and the Department of Motor Vehicles sends notice to the person that the person is eligible to receive a restricted license pursuant to subsection (H); and

 (2) request a contested case hearing before the Office of Motor Vehicle Hearings in accordance with the Office of Motor Vehicle Hearings' rules of procedure. The ignition interlock restriction must be maintained on the temporary alcohol license for three months. If the contested case hearing has not reached a final disposition by the time the ignition interlock restriction has been removed, the person can obtain a temporary alcohol license without an ignition interlock restriction.

 (3) At the contested case hearing, if:

 (a) the suspension is upheld, the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension period provided for in subsection (I). Within thirty days of the issuance of the notice that the suspension has been upheld, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990 and must enroll in the Ignition Interlock Device Program pursuant to Section 56‑5‑2941;

 (b) the suspension is overturned, the person must have the person's driver's license, permit, or nonresident operating privilege reinstated and the person must be reimbursed by the Department of Motor Vehicles in the amount of the fees provided for in subsection (B)(1)(c).

 (4) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

 (5)(4) The provisions of this subsection do not affect the trial for a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945.

 (C) The period of suspension provided for in subsection (I) begins on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continues until the person applies for a temporary alcohol license and requests a contested case hearing.

 (D) If a person does not request a contested case hearing, the person waives the person's right to the hearing, and the person's suspension must not be stayed but continues for the period provided for in subsection (I).

 (E) The notice of suspension must advise the person:

 (1) of the person's right to obtain a temporary alcohol driver's license and to request a contested case hearing before the Office of Motor Vehicle Hearings;

 (2) that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person waives the person's right to the contested case hearing, and the suspension continues for the period provided for in subsection (I); and

 (3) that, if the suspension is upheld at the contested case hearing or the person does not request a contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

 (F)(1) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

 (a) was lawfully arrested or detained;

 (b) was given a written copy of and verbally informed of the rights enumerated in Section 56‑5‑2950;

 (c) refused to submit to a test pursuant to Section 56‑5‑2950; or

 (d) consented to taking a test pursuant to Section 56‑5‑2950, and the:

 (i) reported alcohol concentration at the time of testing was fifteen one‑hundredths of one percent or more;

 (ii) individual who administered the test or took samples was qualified pursuant to Section 56‑5‑2950;

 (iii) tests administered and samples obtained were conducted pursuant to Section 56‑5‑2950; and

 (iv) machine was working properly.

 (2) Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

 (3) A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing and must receive credit for the number of days, if any, the person maintained an ignition interlock restriction on the temporary alcohol license.

 (4) The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

 (G) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with the Administrative Law Court's appellate rules. The filing of an appeal stays the suspension until a final decision is issued on appeal.

 (H) If the person did not request a contested case hearing or the suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990.

 (I)(1) Except as provided in item (3), the period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, an arrested person who has no previous convictions for violating Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs within the ten years preceding a violation of this section, and who has had no previous suspension imposed pursuant to Section 56‑1‑286, 56‑5‑2951, or 56‑5‑2990, within the ten years preceding a violation of this section is:

 (a) six months one year for a person who refuses to submit to a test pursuant to Section 56‑5‑2950; or

 (b) one month two months for a person who takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more.

 (2) The period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, a person who has been convicted previously for violating Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or another drug within the ten years preceding a violation of this section, or who has had a previous suspension imposed pursuant to Section 56‑1‑286, 56‑5‑2951, or 56‑5‑2990, within the ten years preceding a violation of this section is:

 (a) for a second offense, nine months two years if the person refuses to submit to a test pursuant to Section 56‑5‑2950, or two four months if the person takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more;

 (b) for a third offense, twelve months three years if the person refuses to submit to a test pursuant to Section 56‑5‑2950, or three six months if the person takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more; and

 (c) for a fourth or subsequent offense, fifteen months four years if the person refuses to submit to a test pursuant to Section 56‑5‑2950, or four eight months if the person takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more.

 (3)(a) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56‑5‑2941, end the suspension or denial of the issuance of a license or permit, and obtain an ignition interlock restricted license pursuant to Section 56‑1‑400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension or denial of the issuance of a license or permit. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months.

 (b) The person must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

 (c) Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56‑5‑2941 and cannot subsequently choose to serve the suspension.

 (J) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension or ignition interlock restricted license requirement pursuant to subsection (I) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program. After the person's driving privilege is restored, the person shall continue the services of the Alcohol and Drug Safety Action Program. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until the completion of the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990 before the person's driving privilege can be restored at the conclusion of the suspension period or ignition interlock restricted license requirement.

 (K) When a nonresident's privilege to drive a motor vehicle in this State has been suspended pursuant to the provisions of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license or permit.

 (L) The department shall not suspend the privilege to drive of a person under the age of twenty‑one pursuant to Section 56‑1‑286, if the person's privilege to drive has been suspended pursuant to this section arising from the same incident.

 (M) A person whose driver's license or permit is suspended pursuant to this section is not required to file proof of financial responsibility.

 (N) An insurer shall not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56‑1‑286, 56‑5‑2930, 56‑5‑2933, 56‑5‑2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs based solely on the violation unless the person is convicted of the violation.

 (O) The department shall administer the provisions of this section.

 (P) Nothing in this section shall prevent the prosecuting authority from waiving or dismissing the charge.

SECTION 8. Section 56‑5‑2953 of the S.C. Code is amended to read:

 Section 56‑5‑2953. (A) A person who violates Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945 must have his conduct at the incident site and the breath test site video recorded. The State may comply with the video recording requirement by offering into evidence one or more video recordings, or by establishing that one or more of the exceptions provided for in subsection (B) applies.

 (1)(a) The video Video recording at the incident site must:

 (i) not begin later than the activation of the officer's blue lights;

 (ii) include any field sobriety tests administered; and

 (iii) include the arrest of a person for a violation of Section 56‑5‑2930 or Section 56‑5‑2933, or a probable cause determination in that the person violated Section 56‑5‑2945,; and show the person being advised of his Miranda rights.

 (iv) reasonably document the advisement of Miranda rights if Miranda warnings are given. Nothing in this section shall be construed to require the giving of Miranda warnings unless the state attempts to introduce statements made in response to a custodial interrogation.

 (b) A refusal to take a field sobriety test does not constitute disobeying a police command.

 (2) The If a breath test is administered, video recording at the breath test site must:

 (a) include the entire breath test procedure, the person being informed that he is being video recorded, and that he has the right to refuse the test;

 (b) include the person taking or refusing the breath test and the actions of the breath test operator while conducting the test; and

 (c) also include the person's conduct during the required twenty‑minute pre‑test waiting period, unless the officer submits a sworn affidavit certifying that it was physically impossible to video record this waiting period.

 (3) The video recordings of made at the incident site, in the law enforcement vehicle, and of at the breath test site are admissible pursuant to the South Carolina Rules of Evidence in a criminal, administrative, or civil proceeding by any party to the action.

 (B) (1) Nothing in this section may be construed as prohibiting the introduction of other relevant evidence in the trial of a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945. Nothing in this section may be construed to compel or authorize the dismissal of a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945.

 (2) Failure by the arresting officer to produce the video recording required by this section is not alone a ground for dismissal of any charge made pursuant to a video recording that substantially complies with the recording requirements of this section may be grounds for the suppression of evidence that was not properly recorded or documented as set forth in this section in any trial for a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945 if unless the arresting officer submits a sworn affidavit certifying that the video recording equipment at the time of the arrest or probable cause determination, or video equipment at the breath test facility was in an inoperable condition, stating which reasonable efforts have been made to maintain the equipment in an operable condition, and certifying that there was no other operable breath test facility available in the county or, in the alternative, submits a sworn affidavit certifying that it was physically impossible to produce the video recording because the person needed emergency medical treatment, or exigent circumstances existed. In circumstances including, but not limited to, road blocks, traffic accident investigations, and citizens' arrests, where an arrest has been made and the video recording equipment has not been activated by blue lights, the failure by the arresting officer to produce the video recordings required by this section is not alone a ground for dismissal the suppression of evidence. However, as soon as video recording is practicable in these circumstances, video recording must begin as soon as practicable and thereafter must conform with the provisions of this section. Nothing in this section prohibits the court from considering any other valid reason for the failure to produce the of the State to substantially comply with any video recording requirements based upon the totality of the circumstances; nor do the provisions of this section prohibit the person from offering evidence relating to the arresting law enforcement officer's failure to produce the video recording.

 (3) A motion to suppress evidence that is based upon the State’s failure to substantially comply with the videotaping requirements of this section must be made prior to the time that the jury is sworn, or jeopardy otherwise attaches. The court must view all relevant portions of any video recordings before making a ruling on suppression of evidence or testimony and may only grant the motion upon a finding that suppression of the evidence is necessary to avoid unfair prejudice to the defendant.

 (C) A video recording must not be disposed of in any manner except for its transfer to a master recording for consolidation purposes until the results of any legal proceeding in which it may be involved are finally determined.

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

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

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

 (G) The provisions contained in Section 56‑5‑2953(A), (B), and (C) take effect for each law enforcement vehicle used for traffic enforcement once the law enforcement vehicle is equipped with a video recording device. The provisions contained in Section 56‑5‑2953(A), (B), and (C) take effect for a breath test site once the breath test site is equipped with a video recording device.

SECTION 9. Section 56‑5‑2920 of the S.C. Code is amended to read:

 Section 56‑5‑2920. (A) Any A person who drives any vehicle in such a manner as to indicate either a wilful or wanton disregard for the safety of persons or property is guilty of reckless driving. The Department of Motor Vehicles, upon receiving satisfactory evidence of the conviction, of the entry of a plea of guilty or the forfeiture of bail of any person charged with a second and subsequent offense for the violation of this section shall forthwith suspend the driver's license of any such person for a period of three months. Only those offenses which occurred within a period of five years including and immediately preceding the date of the last offense shall constitute prior offenses within the meaning of this section. Any person violating the provisions of this section shall, upon conviction, entry of a plea of guilty or forfeiture of bail, be punished by a fine of not less than twenty‑five dollars nor more than two hundred dollars or by imprisonment for not more than thirty days.

 (B) A person who drives any vehicle in such a manner as to indicate either a wilful or wanton disregard for the safety of persons or property and causes great bodily injury, as defined in section 56‑5‑2945(B), to another is guilty of felony reckless driving and, upon conviction, shall be punished by a fine of not less than five hundred dollars nor more than two thousand five hundred dollars, or by imprisonment for not more than five years, or both.

SECTION 10. Chapter 5, Title 56 of the S.C. Code is amended by adding:

 Section 56‑5‑2960. (A) As used in this section:

 (1) “disabled” means a legal disability as is measured by functional inabilities; and includes inabilities caused by psychological, psychiatric, or stress‑related trauma, and refers to any person seventeen years of age or older who is unable to make informed decisions with respect to his or her personal affairs to the extent that he or she lacks the capacity to provide for his or her physical health and safety or the physical health and safety of a minor child, including but not limited to health care, food, shelter, clothing, or personal hygiene; and

 (2) “totally and permanently disabled” means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months; and includes a finding of permanent total disability by the Social Security Administration that a person is disabled and qualifies for benefits or a finding by an administrative law judge.

 (B)(1) If a defendant is convicted of a violation of Section 56‑5‑2945(B) and the violation caused the death of a parent or guardian of a minor child or dependent or resulted in a finding by the court that a parent or guardian of a minor child or dependent is disabled or totally and permanently disabled, then the sentencing court may order the defendant to pay restitution in the form of financial support for the child or dependent to each child or dependent of the victim for the duration of any probationary sentence until the child or dependent reaches eighteen years of age, or nineteen years of age if the child or dependent is still enrolled in high school.

 (2) In determining an amount that is reasonable and necessary for the financial support of the victim’s child or dependent, the court shall consider all relevant factors, including the:

 (a) financial needs and resources of the child or dependent;

 (b) financial resources and needs of the surviving parent or guardian of the child or dependent;

 (c) standard of living to which the child or dependent is accustomed;

 (d) physical and emotional condition of the child or dependent and the child’s or dependent’s educational needs;

 (e) child’s or dependent’s physical and legal custody arrangements; and

 (f) reasonable childcare expenses of the surviving parent or guardian.

 (C)(1) If the surviving parent or guardian of the child or dependent brings a civil action against the defendant before the sentencing court orders restitution to financially support the child or dependent and the surviving parent or guardian obtains a judgment and full satisfaction of damages in the civil suit, restitution shall not be ordered under this section.

 (2) If the court orders the defendant to pay restitution to financially support the child or dependent under this section and the surviving parent or guardian subsequently brings a civil action and obtains a judgment, the restitution order shall be offset by the amount of the judgment awarded and paid by the defendant or the defendant’s insurance for lost wages or permanent impairment of the power to work and earn money in the civil action.

SECTION 11. Section 56‑1‑286(L) of the S.C. Code, as previously amended, is further amended to read:

 (L)(1) Within thirty days of the issuance of the notice of suspension the person may:

 (a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure;

 (b) enroll in the Ignition Interlock Device Program pursuant to Section 56‑5‑2941; or

 (c) obtain a temporary alcohol license with an ignition interlock restriction pursuant to Section 56‑1‑400 from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57‑11‑20, to be distributed as provided in Section 11‑43‑167. The temporary alcohol license allows the person to drive a motor vehicle pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter.

 (2) The ignition interlock restriction must be maintained on the temporary alcohol license for three months. If the contested case hearing has not reached a final disposition by the time the ignition interlock restriction has been removed, then the person can obtain a temporary alcohol license without an ignition interlock restriction.

 (3) At the contested case hearing if:

 (a) the suspension is upheld, the person shall enroll in an Alcohol and Drug Safety Action Program and the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension periods provided for in subsections (F) and (G); and or

 (b) enroll in the Ignition Interlock Device Program pursuant to Section 56‑5‑2941. the suspension is overturned, the person’s driver’s license, permit, or nonresident operating privilege must be reinstated.

 (4) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

SECTION 12. Section 56‑1‑400(H) of the S.C. Code, as previously amended, is further amended to read:

 (H) Nothing in this section shall be construed to require a person to obtain an ignition interlock device unless one or more of the offenses that resulted in the suspension were alcohol related.

SECTION 13. This act takes effect upon approval by the Governor except SECTIONS 3, 7, 11, and 12 which take effect May 19, 2024.

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