CHAPTER 26

South Carolina Sentencing Guidelines Commission

**SECTION 24‑26‑10.** Commission established.

(A) There is established the South Carolina Sentencing Guidelines Commission composed of thirteen voting members as follows:

(1) a justice of the Supreme Court, appointed by the Chief Justice of the Supreme Court;

(2) two circuit court judges, appointed by the Chief Justice of the Supreme Court;

(3) three members of the Senate to be designated by the chairman of the Senate Judiciary Committee;

(4) three members of the House designated by the chairman of the House Judiciary Committee;

(5) an attorney, experienced in the practice of criminal law, appointed by the Governor from a list of candidates submitted by the President of the South Carolina Bar;

(6) the Dean of the Law School of the University of South Carolina or his designee;

(7) the South Carolina Attorney General, or his designee, to serve ex officio;

(8) a solicitor appointed by the Chairman of the South Carolina Circuit Solicitors’ Association.

(B) In addition, there are four nonvoting members of the commission as follows:

(1) the Chief of the State Law Enforcement Division, or his designee, to serve ex officio;

(2) the Chairman of the Commission on Indigent Defense, or his designee who must be a member of that commission or who must be the director of the commission;

(3) the Chairman of the State Board of Corrections, or his designee who must be a member of that board or who must be the Commissioner of the Department of Corrections;

(4) the Chairman of the Board of the Department of Probation, Parole and Pardon Services, or his designee who must be a member of that board or who must be the Commissioner or Executive Director of the Department of Probation, Parole and Pardon Services.

The appointed members of the commission shall serve for a term of four years. The members of the commission who are designated to serve by a particular person or official shall serve at the pleasure of that person or official making the designation and also only so long as the designated member holds the official position entitling him to membership on the commission. Members are eligible for reappointment, and any vacancy must be filled in the manner of original appointment for the remainder of the unexpired term.

The members of the commission shall elect one member to serve as chairman for a term of one year. The members of the commission may also elect any additional officers they consider necessary for the efficient discharge of their duties. Members are eligible for reelection as officers of the commission.

HISTORY: 1989 Act No. 152, Section 2; 1995 Act No. 7, Part IV, Section 71(B).

Library References

Sentencing and Punishment 659.

Westlaw Topic No. 350H.

C.J.S. Criminal Law Sections 1479, 1551.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Probation, Parole, and Pardon Section 3, Membership on the Board.

**SECTION 24‑26‑20.** Duties and responsibilities.

The commission has the following duties and responsibilities:

(1) recommend advisory sentencing guidelines for the general sessions court for all offenses for which a term of imprisonment of more than one year is allowed.

(a) The guidelines must establish:

(i) the circumstances under which imprisonment of an offender is proper;

(ii) a range of fixed sentences for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics;

(iii) a determination whether multiple sentences to terms of imprisonment must be ordered to run concurrently or consecutively.

(b) In establishing the advisory sentencing guidelines, the commission shall take into consideration current sentence and release practices and correctional resources including, but not limited to, the capacities of local and state correctional facilities;

(2) recommend appropriate advisory sentencing guidelines for the general sessions courts for all offenses for which a term of imprisonment of one year or less is allowed;

(3) recommend appropriate advisory guidelines for offenders for whom traditional imprisonment is not considered proper. Advisory guidelines promulgated by the commission for offenders for whom traditional imprisonment is not considered proper must make specific reference to noninstitutional sanctions;

(4) develop and recommend policies for preventing prison and jail overcrowding;

(5) examine the impact of statutory provisions and current administrative policies on prison and jail overcrowding;

(6) before January sixteenth of each year, prepare and submit to the Governor, the General Assembly, and the Chief Justice of the Supreme Court a comprehensive state criminal justice ten‑year, five‑year, and one‑year plan for preventing prison and jail overcrowding. This plan must include, but is not limited to, the number of persons currently involved in pretrial and postsentencing options predominantly provided through community‑based agencies which minimize the number of persons requiring incarceration consistent with protection of public safety, including mediation, restitution, supervisory release, and community service plans and the impact on prison populations, local communities, and court caseloads. The commission shall take into account state plans in the related areas of mental health and drug and alcohol abuse in the development of the plan;

(7) research and gather relevant statistical data and other information concerning the impact of efforts to prevent prison and jail overcrowding and make the information available to criminal justice agencies and members of the General Assembly;

(8) serve as a clearing house and information center for the collection, preparation, analysis, and dissemination of information on state and local sentencing practices and conduct ongoing research regarding sentencing guidelines, use of imprisonment and alternatives to imprisonment, plea bargaining, and other matters relating to the improvement of the criminal justice system;

(9) make recommendations to the General Assembly regarding changes in the criminal code, criminal procedures, and other aspects of sentencing.

HISTORY: 1989 Act No. 152, Section 2; 1990 Act No. 433, Section 1; 1995 Act No. 7, Part II, Section 46.

CROSS REFERENCES

Authorization to employ staff, see Section 24‑26‑30.

Library References

Sentencing and Punishment 659.

Westlaw Topic No. 350H.

C.J.S. Criminal Law Sections 1479, 1551.

**SECTION 24‑26‑30.** Commission staff.

The commission may employ a staff director and other professional and clerical personnel upon the appropriation of sufficient funds by the General Assembly. The duties of the staff director and the other personnel of the commission must be set by the commission.

HISTORY: 1989 Act No. 152, Section 2; 1995 Act No. 7, Part II, Section 47.

CROSS REFERENCES

For funding provisions, see Section 24‑26‑40.

**SECTION 24‑26‑40.** Funding.

The commission shall receive funding provided by the General Assembly and is encouraged to apply for and may expend federal funds and grants and gifts it may receive from other sources to carry out its duties and responsibilities.

HISTORY: 1989 Act No. 152, Section 2; 1995 Act No. 7, Part II, Section 48.

CROSS REFERENCES

For establishment of general policies and the approval of advisory guidelines, see Section 24‑26‑50.

**SECTION 24‑26‑50.** Establishment of general policies; approval of advisory guidelines.

The commission, by vote of a majority of the membership, may establish general policies. The advisory guidelines prescribed and promulgated pursuant to Section 24‑26‑20 must be approved by the General Assembly.

HISTORY: 1989 Act No. 152, Section 2; 1995 Act No. 7, Part II, Section 49.

CROSS REFERENCES

Commission to recommend changes in classification system based on maximum terms, see Section 24‑26‑60.

**SECTION 24‑26‑60.** Recommendations regarding changes in classification system.

The commission shall recommend to the General Assembly a classification system based on maximum term of imprisonment for all South Carolina criminal offenses. Thereafter, the commission shall make, from time to time, recommendations to the General Assembly regarding changes in the classification system.

HISTORY: 1995 Act No. 7, Part II, Section 50.