

**CRIMINAL JUSTICE SUBCOMMITTEE  
RECOMMENDATIONS FOR FY 2021-22  
TO THE PROVISO SUBCOMMITTEE**

**SECTION 47 - P240 - DEPARTMENT OF NATURAL RESOURCES**

**47.wip** **ADD** (Waterfowl Impoundments Projects) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso that provides guidelines for the department to enter into agreements with qualified not for profit entities that specializes in waterfowl impoundment development on land owned by the department or by the state. Directs that the entity is considered a sole source provider.

*47.wip. (DNR: Waterfowl Impoundments Projects) The Department of Natural Resources, when procuring goods and services for the planning, development, construction, improvement, and/or maintenance of waterfowl impoundments on land owned by the department or owned by the state and managed by the department, may enter into agreements with a qualified, not for profit entity that specializes in waterfowl impoundment development, and that entity is considered a sole source provider.*

**SECTION 53 - P400 - S.C. CONSERVATION BANK**

**53.tpcf** **ADD** (Trust Program Carry Forward) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the Conservation Bank to carry forward unexpended funds allocated to the Conservation Bank Trust Program.

*53.tpcf. (CB: Trust Program Carry Forward) The Conservation Bank may carry forward any unexpended funds allocated to the Conservation Bank Trust Program from the prior fiscal year into the current fiscal year to be used for the same purpose.*

**SECTION 60 - E210 - PROSECUTION COORDINATION COMMISSION**

**60.4** **AMEND** (Solicitor Carry Forward) Authorizes the solicitor's office to carry forward any unexpended funds to be used for solicitor's office operating expenses.  
**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to also allow the funds to be used for Commission on Prosecution Coordination operating expenses.

*60.4. (PCC: ~~Solicitor~~ Carry Forward) Any unexpended balance on June thirtieth, of the prior fiscal year, may be carried forward into the current fiscal year and expended for the operation of the ~~solicitor's office~~ Commission on Prosecution Coordination or the Offices of the Solicitor relating to operational expenses.*

**60.11** **CONFORM TO FUNDING / AMEND** (Caseload Equalization Funding) Directs that the first \$3,450,000 of caseload equalization funds be distributed \$75,000 per county and the remaining \$4,376,872 be distributed based on the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years.

**SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING / AMEND proviso to direct that after the first \$3,450,000 is distributed the next \$1,248,000 is distributed \$78,000 per circuit. Change "The remaining \$4,376,872" to "\$9,732,842." Direct that of the additional amounts appropriated the first \$48,000 be distributed at \$3,000 per circuit and the remaining funds be distributed based on the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years.

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**60.11.** (PCC: Caseload Equalization Funding) The amount appropriated in this Act and authorized for Caseload Equalization will have the first \$3,450,000 distributed at an amount of \$75,000 per county *and the next \$1,248,000 distributed at an amount of \$78,000 per circuit.* ~~The remaining \$4,376,872~~ *\$9,732,842* shall be distributed based upon the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years. *Additional amounts appropriated in the current fiscal year shall be distributed with the first \$48,000 distributed at an amount of \$3,000 per circuit and remaining funds based upon the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years.*

**60.12** **AMEND** (Summary Court Domestic Violence Fund Distribution) Directs that Summary Court Domestic Violence Prosecution funds be distributed based upon 10% of the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years. **SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to direct that funding shall be based on the average incoming caseload instead of 10%.

**60.12.** (PCC: Summary Court Domestic Violence Fund Distribution) The Summary Court Domestic Violence Prosecution funding shall be distributed based ~~upon ten percent of~~ *on* the average incoming caseload for each county as reported by the South Carolina Judicial Department for the prior 3 fiscal years.

**60.ir** **CONFORM TO FUNDING / ADD** (Intake and Review Funding) **SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING / ADD new proviso to provide for the distribution of Intake and Review Programs funds. Direct that the first \$1,248,000 be distributed as follows: \$78,000 to each circuit with the remaining \$2,054,000 distributed based on the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years. Direct that in the current fiscal year, of the additional amounts appropriated, the first \$48,000 be distributed at \$3,000 to each circuit and the remaining funds be distributed based on the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years.

*60.ir. (PCC: Intake and Review Funding) The amount appropriated in this Act and authorized for Intake and Review Programs will have the first \$1,248,000 distributed at an amount of \$78,000 per circuit. \$2,054,000 shall be distributed based upon the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years. Additional amounts appropriated in the current fiscal year shall be distributed with the first \$48,000 distributed at an amount of \$3,000 per circuit and remaining funds based upon the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years.*

**60.pt** **ADD** (Pass Through Funding Budget Reduction Exemption) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that funds distributed to the South Carolina Center for Fathers and Families shall not be considered a part of the commission's budget for purposes of calculating budget reductions.

*60.pt. (PCC: Exemption for Pass Through Funding to Outside Entities) The funds distributed by the Commission on Prosecution Coordination that are appropriated for the South Carolina Center for Fathers and Families or other community programs, and not for the Offices of Solicitor, shall not be considered part of the commission's budget for purposes of calculating budget reductions.*

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**60.tf CONFORM TO FUNDING / ADD** (Solicitor Technology Funding Distribution) **SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING / ADD new proviso to direct that funds appropriated and authorized for the Circuit Solicitor Intelligence Led Prosecution Programs shall be allocated in equal amounts among the circuits. Require funding first be distributed to develop and implement a CJIS compliant prosecution case management system capable of integrating with the Commission on Prosecution Coordination and other circuit solicitor offices. Authorize unexpended funds to be carried forward and used for the same purpose.

*60.tf. (PCC: Solicitor Technology Funding Distribution) The amount appropriated in this Act and authorized for Circuit Solicitor Intelligence Led Prosecution Programs shall be apportioned in equal amounts among the 16 circuits. Funding allocated for each circuit must first be distributed for the development and implementation of a CJIS compliant prosecution case management system capable of integration with the South Carolina Commission on Prosecution Coordination and other Offices of Circuit Solicitor. Unexpended program funds from the prior fiscal year may be carried forward into the current fiscal year to be used for the same purposes.*

**SECTION 61 - E230 - COMMISSION ON INDIGENT DEFENSE**

**61.4 AMEND** (SC Appellate Court Rule 608 Appointments) Provides for the expenditure of SC Appellate Court Rule 608 Appointments funds. Directs that the funds be used to reimburse court appointed private attorneys for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, Post-Conviction Relief and Criminal Conflict appointments. Prohibits SC Appellate Court Rule 608 Appointments funds from being transferred or used for any other purpose. Establishes a reimbursement rate and provides guidelines for reimbursement to exceed the limits. **SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to delete Title 20 code sections references and replace with Title 63 references. Delete the stipulation the attorneys reimbursed be limited to those “qualified to handle civil and criminal court appointments.” Allow a portion of the funds to be used to contract with other professionals to assist court appointed attorneys. Direct the commission to establish policies, procedures, and contract provisions as it deems appropriate.

**61.4.** (INDEF: SC Appellate Court Rule 608 Appointments) The funds appropriated under “SC Appellate Court Rule 608 Appointments” shall be used for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post-Conviction Relief (PCR) and Criminal Conflict appointments to reimburse court appointed private attorneys and for other expenditures as specified in this provision. SC Appellate Court Rule 608 Appointments funds may not be transferred or used for any other purpose.

A portion of the funds appropriated under “SC Appellate Court Rule 608 Appointments” shall be used for “Termination of Parental Rights” cases and “Abuse and Neglect” cases to reimburse private attorneys who are appointed by the Family Court to represent guardians ad litem, children, or parents under the provisions of S.C. Code Sections 20-7-110 et seq., 20-7-1570 et seq., 20-7-1695 (A)(2) et seq., 20-7-7205 et seq., and 20-7-8705 (4)(a) et seq.; Sections 63-7-1620 et seq., 63-7-2560 et seq., 63-9-320(A)(2) et seq., 63-19-810 et seq., and 63-19-2210 et seq.; for “Probate Court Commitment” cases to reimburse private attorneys who are appointed by the Probate Court to represent indigent persons; and for “Sexually Violent Predator” cases to reimburse private attorneys who are appointed by the Circuit Court pursuant to Sections

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44-48-10, et seq., to represent indigent persons. When private counsel is appointed pursuant to these provisions, counsel shall be reimbursed a reasonable fee to be determined on the basis of fifty dollars per hour or reimbursement may also be made on the basis of a set (flat) fee. The method of payment and the amount of the set fee will be determined by the Commission on Indigent Defense. Attorney fees shall not exceed two thousand dollars for any case under which such private attorney is appointed.

A portion of the funds appropriated under “SC Appellate Court Rule 608 Appointments” shall be used for noncapital Post Conviction Relief Cases. Any attorney appointed shall be compensated at a rate not to exceed forty dollars per hour for time expended out of court and sixty dollars per hour for time expended in court, or on the basis of a set (flat) fee. The method of payment and amount of set (flat) fee will be determined by the Commission on Indigent Defense. Attorney fees shall not exceed one thousand dollars in any single case.

A portion of the funds appropriated under “SC Appellate Court Rule 608 Appointments” shall be used for noncapital criminal cases pursuant to Section 17-3-50 (Conflict Fund). Any attorney appointed shall be compensated at a rate not to exceed forty dollars per hour for time expended out of court and sixty dollars per hour for time expended in court, or on the basis of a set (flat) fee. The method of payment and amount of set (flat) fee will be determined by the Commission on Indigent Defense. Attorney fees shall not exceed three thousand five hundred dollars in any single felony case or one thousand dollars in any single misdemeanor case.

Reimbursement in excess of the hourly rate and limit set forth herein is authorized only if the court certifies, in a written order with specific findings of fact, prior to the fees being incurred, that reimbursement in excess of the rates or limit is necessary to provide reimbursement adequate to ensure effective assistance of counsel and reimbursement in excess of the limit is appropriate because the services to be provided are reasonable and necessary. If prior approval by written order of the court is not obtained, no additional fees shall be paid under any circumstances.

Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonable and necessary for the representation of the defendant, the court shall authorize the defendant’s attorney to obtain such services on behalf of the defendant and shall authorize the payment, from funds available to the Commission on Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate. Payment in excess of the five hundred dollar limit is authorized only if the court certifies, in a written order with specific findings of fact, prior to the expense being incurred, that payment in excess of the limit is appropriate because the services to be provided are reasonable and necessary to provide adequate defense. Payments shall be made from funds appropriated for this purpose from the Commission of Indigent Defense. If prior approval by written order of the court is not obtained, no additional expenses shall be paid under any circumstances.

Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense. The commission shall provide a copy of the established procedures and policies to the Senate Finance Committee and the House Ways and Means Committee.

A portion of the funds appropriated under “SC Appellate Court Rule 608 Appointments” may be used by the Commission on Indigent Defense to retain, on a contractual basis, the services of attorneys ~~qualified to handle civil and criminal court appointments, to be reimbursed in accordance with applicable provisos and statutes~~ and other professionals to assist court appointed attorneys to provide quality and effective representation. The commission shall establish all policies, procedures, and contract provisions as it deems appropriate for the implementation of the system including, but not limited to, the selection and compensation of contract awardees.

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- 61.10** **DELETE** (Donation Carry Forward) Allows the Commission on Indigent Defense to accept donations for the publication of “The South Carolina Juvenile Collateral Consequences Checklist” and to retain, carry forward and expend revenue derived from received donations.  
**SUBCOMMITTEE RECOMMENDATION:** DELETE proviso.

~~**61.10.** (INDEF: Donation Carry Forward) The Commission on Indigent Defense may accept donations for the publication of “The South Carolina Juvenile Collateral Consequences Checklist.” All revenue derived from donations received at the Commission on Indigent Defense shall be retained, carried forward and expended according to agreement reached between the donor, or donors, and the Commission on Indigent Defense.~~

- 61.11** **AMEND** (Capital Case Contract Attorneys) Directs that funds appropriated from the Death Penalty Trial Fund may be used to retain the services of attorneys qualified in capital proceedings. Directs the commission to establish policies and procedures for system implementation.  
**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to allow funds to be used to contract for services of other professionals to assist attorneys in providing representation.

**61.11.** (INDEF: Capital Case Contract Attorneys) Funds appropriated from the Death Penalty Trial Fund may be used by the commission to retain, on a contractual basis, the service of attorneys qualified to provide representation in capital proceedings to include: capital trials, post-conviction relief actions, re-sentencing, appeals or any other capital litigation proceeding.

The commission shall establish all policies, procedures and contract provisions as it deems appropriate for the implementation of the system, including but not limited to the selection and compensation of contract awardees. The commission may use these funds to retain, on a contractual basis, the services of other professionals to assist court appointed attorneys to provide quality and effective representation in the above capital proceedings.

- 61.wp** **CONFORM TO FUNDING / ADD** (Criminal Justice System Workload Parity)  
**SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING / ADD new proviso to provide for the distribution of Criminal Justice System Workload Parity funds. The first \$6,800,000 shall be distributed as follows: \$1,200,000 to distribute \$75,000 to each circuit for one Public Defender; \$800,000 to distribute \$50,000 to each circuit for one administrative assistant; \$2,400,000 to distribute \$150,000 to each circuit for two investigators; and \$2,400,000 to distribute \$150,000 for each circuit for two bond court attorneys. Direct that the remaining \$1,000,000 is to be distributed per capita and used to retain experienced public defenders and staff.

**61.wp.** (INDEF: Criminal Justice System Workload Parity) From the amount appropriated in this Act and authorized for Criminal Justice System Workload Parity shall have the first \$6,800,000 shall be distributed as follows: \$1,200,000 shall be distributed in the amount \$75,000 per circuit for 1.00 Public Defender; \$800,000 shall be distributed in the amount of \$50,000 per circuit for 1.00 Administrative Assistant; \$2,400,000 shall be distributed in the amount of \$150,000 per circuit for 2.00 Investigators; \$2,400,000 shall be distributed in the amount of \$150,000 per circuit for 2.00 Bond Court Attorneys. The remaining \$1,000,000 shall be distributed on a per-capita basis, for the purpose of retaining experienced and talented public defenders and staff.

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**SECTION 63 - K050 - DEPARTMENT OF PUBLIC SAFETY**

**63.5**     **AMEND** (SC Law Enforcement Officers Hall of Fame Scholarships/*Donations*) Authorizes the department to accept donations in order to provide scholarships to children of law enforcement officers who were killed in the line of duty. Authorizes the Law Enforcement Officers Hall of Fame Advisory Committee to set criteria for awarding the scholarships. Requires all revenue received to be used for the scholarships. Authorizes the department to retain, expend, and carry forward unexpended funds.

**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to direct that funds designated for scholarships shall not be used for any other purpose. Authorize DPS to accept and disburse funds received from donations for the purpose of carrying out the objectives and programs of the SC Law Enforcement Officers Hall of Fame. Authorize unspent funds associated with the donation of funds to be retained, expended, and carried forward to be used for the same purposes.

**63.5.**     (DPS: SC Law Enforcement Officers Hall of Fame Scholarships/*Donations*) The Department of Public Safety is hereby authorized to accept donations from the public in order to provide scholarships to the children of law enforcement officers killed in the line of duty. The South Carolina Law Enforcement Officers Hall of Fame Advisory Committee is authorized to set the criteria for awarding such scholarships. All revenue received for this purpose shall be used to provide scholarships and shall be retained, carried forward, and expended for the same purpose. *Funds received and designated for scholarships shall not be used for any other purpose.*

*The department shall also be authorized to accept and disburse funds and grants, including any donations, contributions, funds, or gifts from private individuals, foundations, agencies, corporations, or the state or federal government, for the purpose of carrying out the programs and objectives of the South Carolina Law Enforcement Officers Hall of Fame. The department shall be authorized to retain, expend, and carry forward unexpended donations received for the South Carolina Law Enforcement Officers Hall of Fame and utilize those funds for the same purposes in the current fiscal year.*

**63.7**     **AMEND** (Overtime Pay) Requires DPS to pay current non-exempt law enforcement officers by October 1<sup>st</sup> for any compensatory time earned and not used in the prior fiscal year. Directs funds be provided from available personal services, appropriated overtime funds and/or employer contributions funds carried forward from the prior fiscal year. Directs that if carried forward funds are insufficient, DPS pay the officers on a percentage distribution based on hours owed per officer up to the total amount that DPS has carried forward.

**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to update fiscal year reference to the current fiscal year.

**63.7.**     (DPS: Overtime Pay) For ~~Fiscal Year 2020-21~~ *the current fiscal year*, the department is authorized and required to pay current non-exempt law enforcement officers by October 1<sup>st</sup> for any compensatory time earned and not used in the prior fiscal year. The funds for this compensation must be provided from available personal services, appropriated overtime funding, and/or employer contributions funds carried forward from the prior fiscal year. If the amount of carried forward funds is not sufficient to pay all the non-exempt law enforcement officers accrued compensatory time, the department shall pay the officers on a percentage distribution based on the hours owed per officer up to the total amount that the department has carried forward.

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**SECTION 67 -N120 - DEPARTMENT OF JUVENILE JUSTICE**

**67.12 CONFORM TO FUNDING / DELETE** (Local District Effort) Directs the home school district of a child that is committed or confined to a DJJ facility to transfer to DJJ a pro rata share of the district's local portion of the base student cost per school day for that child for the school days the child is committed or confined. Authorizes DJJ to use funds from other programmatic areas to maintain an appropriate level of service for that child if adequate funding is not received. **SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING / DELETE proviso.

~~67.12. (DJJ: Local District Effort) Upon commitment or confinement to a Department of Juvenile Justice facility, the school district in which that child resides shall pay an amount equivalent to the statewide average of the local base student cost (thirty percent), multiplied by the appropriate pupil weighting set forth in Section 59-20-40, for instructional services provided to out-of-district students to the Department of Juvenile Justice for the time period in which the child is committed or confined to a department facility. EFA funding for school districts is provided for a one hundred eighty day school year. The billing provided by the department shall be calculated by dividing the local base student cost by two hundred twenty five days to determine the daily rate. The department shall notify the school district in writing within forty five calendar days that a student from the nonresident district is receiving education services pursuant to this provision. The notice shall also contain the student's name, date of birth, disabling condition if available, and dates of service.~~

~~The invoice shall be paid within sixty days of billing, provided the department has provided a copy of the invoice to both the superintendent and the finance office of the school district being invoiced. Should the school district fail to pay the invoice within sixty days, the department can seek relief from the Department of Education. The Department of Education shall withhold EFA funding equal to the billing from the district refusing to pay and submit the funding (equal to the invoice) to the department. If adequate funding is not received, the department shall have the flexibility to use funds from other programmatic areas to maintain an appropriate level of service.~~

**SECTION 117 - X900 - GENERAL PROVISIONS**

**117.136 DELETE** (Georgetown County Boat Ramps) Directs DOT to transfer to DNR the remaining funds from the \$150,000 originally appropriated in Proviso 118.17 (B), item 43(f) of the 2013 Appropriations Act for the Sandy Island Boat Ramp. Directs DNR to credit the transfer to the Water Recreation Resource fund for use in Georgetown County and exempts the amount from being considered part of the annual allocation formula. **SUBCOMMITTEE RECOMMENDATION:** DELETE proviso.

~~117.136. (GP: Georgetown County Boat Ramps) The Department of Transportation shall transfer the remaining funds appropriated for the Sandy Island Boat Ramp in Proviso 118.17 (B), item 43(f), Act 101 of 2013 to the Department of Natural Resources. The Department of Natural Resources shall credit the transfer to the Water Recreation Resource fund for use in Georgetown County and the transfer amount is not to be considered part of the annual allocation formula for Water Recreation Resource funds.~~