~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 7, 2012

**H. 4680**

Introduced by Rep. Bannister

S. Printed 3/7/12--H.

Read the first time January 25, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4680) to amend Section 17‑25‑65, Code of Laws of South Carolina, 1976, relating to reduction of a sentence when a defendant provides substantial assistance in investigating or, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 17‑25‑65 of the 1976 Code, as added by Act 273 of 2010, is amended to read:

“Section 17-25-65. (A) Upon the state’s motion made within one year of sentencing, the court may reduce a sentence including, in its discretion, reducing a sentence below the minimum term of imprisonment provided by law if the defendant~~, after sentencing,~~ provided:

(1) substantial assistance in investigating or prosecuting another person; or

(2) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(B) Upon the state’s motion made more than one year after sentencing, the court, in its discretion, may reduce a sentence as provided in subsection (A) if the defendant’s substantial assistance involved:

(1) information not known to the defendant until one year or more after sentencing;

(2) information provided by the defendant to the State within one year of sentencing, but which did not become useful to the State until more than one year after sentencing;

(3) information, the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing, and which was promptly provided to the State after its usefulness was reasonably apparent to the defendant; or

(4) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(C) A motion made pursuant to this provision ~~shall~~ must be filed by ~~that~~ the Attorney General or the circuit solicitor in the county where the defendant’s case arose. The State shall send a copy to the chief judge of the circuit within five days of filing. The chief judge or a circuit court judge currently assigned to that county ~~shall have~~ has jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 17‑25‑65, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REDUCTION OF A SENTENCE WHEN A DEFENDANT PROVIDES SUBSTANTIAL ASSISTANCE IN INVESTIGATING OR PROSECUTING ANOTHER PERSON, SO AS TO DELETE THE REQUIREMENT THAT THE ASSISTANCE BE PROVIDED AFTER SENTENCING AND CLARIFY THAT A DEFENDANT’S SENTENCE MAY BE REDUCED BELOW THE MINIMUM TERM OF IMPRISONMENT PROVIDED BY LAW UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. Section 17‑25‑65 of the 1976 Code, as added by Act 273 of 2010, is amended to read:

“Section 17-25-65. (A) Upon the state’s motion made within one year of sentencing, the court may reduce a sentence including, in its discretion, reducing a sentence below the minimum term of imprisonment provided by law if the defendant~~, after sentencing,~~ provided:

(1) substantial assistance in investigating or prosecuting another person; or

(2) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(B) Upon the state’s motion made more than one year after sentencing, the court, in its discretion, may reduce a sentence as provided in subsection (A) if the defendant’s substantial assistance involved:

(1) information not known to the defendant until one year or more after sentencing;

(2) information provided by the defendant to the State within one year of sentencing, but which did not become useful to the State until more than one year after sentencing;

(3) information, the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing, and which was promptly provided to the State after its usefulness was reasonably apparent to the defendant; or

(4) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(C) A motion made pursuant to this provision ~~shall~~ must be filed by that circuit solicitor in the county where the defendant’s case arose. The State shall send a copy to the chief judge of the circuit within five days of filing. The chief judge or a circuit court judge currently assigned to that county ~~shall have~~ has jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge.”

SECTION 2. This act takes effect upon approval by the Governor.

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