SENATE JUDICIARY COMMITTEE

END OF SESSION OVERVIEW

Major Bills of 2018

Prepared by:
Senate Judiciary Committee Staff
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2018 END OF SESSION OVERVIEW
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I. LEGISLATIVE ENACTMENTS

A. Administrative Law

Automatic Stay
A. 134, R. 138, S. 105
Ratified: March 7, 2018
Signed by the Governor: March 12, 2018
Effective Date: March 12, 2018

As introduced, this act, pertaining to the procedure for lifting automatic stays in contested cases before the Administrative Law Court, would provide that a request for a contested case hearing from an agency decision granting a license stays the license for 30 days, instead of for an indefinite period as provided in existing law. The House passed this act as it had been amended by the Senate Judiciary Committee and on the Senate floor.

This act:

(1) leaves in place the indefinite automatic stay;
(2) allows a motion to lift the automatic stay to be made 90 days after the stay is imposed;
(3) places the burden of continuing the stay on the party seeking to continue the stay;
(4) specifies that the court must lift the stay unless the party that requested a contested case hearing proves: (a) the likelihood of irreparable harm if the stay is lifted, (b) the substantial likelihood that the party requesting the contested case and stay will succeed on the merits of the case, (c) the balance of equities weigh in favor of continuing the stay, and (d) continuing the stay serves the public interest;
(5) requires that the matter on its merits be concluded in the Administrative Law Court within 12 months;
(6) provides that if the stay is lifted that action undertaken by the permittee or licensee does not moot and is not otherwise considered an adjudication of the issues raised by the request for a contested case hearing;
(7) clarifies that the process to lift a stay does not apply to a contested case concerning a permit or license involving hazardous waste and a stay in such a contested case must not be lifted until the contested case is concluded and the Administrative Law Court has filed its final order in the matter; and
(8) provides that, in addition to the frivolous suit sanctions already authorized, the Administrative Law Court could impose sanctions authorized in the Frivolous Civil Proceedings Sanctions Act, Title 15, Chapter 36, and as otherwise provided by law.

B. Beer, Wine, and Liquor

Temporary Referendums
A. 193, R. 211, S. 820
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act clarifies that counties are allowed to vote for a referendum to sell alcoholic liquors by the drink for on-premises sales every day of the week, for a referendum to sell beer and wine for off-premises consumption every day of the week, or for a referendum to allow both questions at once. The Senate version originally changed the time between referendums from 48 months down to 24 months, but the House amendment returned the time to 48 months and the Senate accepted that amendment.

Soccer Stadiums
A. 236, R. 234, H. 3139
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act adds soccer stadiums that host professional league soccer teams as qualified locations authorized to sell beer, wine, and liquor by the drink for on-premises consumption on any day of the week. The act also allows the applicable soccer stadiums to apply for a 52-week biennial license to serve beer, wine, and liquor by the drink for the entire complex and also designates the entire soccer complex premises as the licensed premises, which means that any alcoholic beverage may be carried to any location within a complex. The provisions also authorize the complex to designate a specific area for special events, so that an individual may provide alcoholic beverages for its own consumption (wedding receptions) or at the expense of a sponsor of an event (business or charitable functions).

Previously, the Darlington Raceway and the Family Circle Tennis Center were the only entertainment complexes so authorized. Last year, Act No. 33 added the four baseball stadiums in South Carolina that host minor league baseball teams. In addition to adding soccer stadiums, this act also modifies the definition of baseball stadium to reach stadiums that host professional league baseball teams instead of only professional minor league baseball teams.

Distance to Schools
A. 252, R. 282, H. 3549
Ratified: May 23, 2018
Signed by the Governor: May 25, 2018
Effective Date: May 25, 2018

This act allows for an on-premises alcohol consumption license to be issued within 300-500 feet from a school as long as the school's decision-making body does not object. The applicant for the license must obtain a statement from the decision-making body stating the body does not object, and, if more than one school district is located within the proscribed area, the applicant must obtain statements from every school district in that zone. The decision-making body for the school retains the option to withdraw its statement at the renewal period for that license.

This license only applies to on-premises consumption of alcoholic liquor and does not apply to retail liquor store licenses.

Prior to passage of this act, on-premises alcohol licenses could be issued even if the premises were located within 300-500 feet from a church or playground as long as the church or playground did not object, but the option not to object did not include schools.

Number of Retail Liquor Stores
A. 147, R. 155, H. 4729
Ratified: April 3, 2018
Signed by the Governor: April 4, 2018
Effective Date: April 4, 2018

In 2017, in response to the ruling by the South Carolina Supreme Court in *Retail Services & Systems, Inc. d/b/a Total Wine v. South Carolina Department of Revenue*, 419 S.C. 469, 799 S.E.2d 665 (2017), which struck down the limitation on any one person owning more than three liquor stores, the General Assembly passed Act No. 62, which maintained the status quo limitation of three liquor store licenses until April 5, 2018. On April 4, 2018, this act was enacted to serve as a permanent solution.

This act makes findings in support of the State's police power to regulate the business of retail liquor sales, citing data from the Centers for Disease Control, the National Highway Traffic Safety Administration, and the Community Prevention Services Task Force related to the health, safety, and morals of the state and its residents.

This act further codifies that the state is acting to protect the health, safety, and morals of its residents and incrementally increases the maximum number of retail dealer licenses one licensee can own so that, subject to the limitations outlined below, a licensee can own four retail dealer licenses starting on June 1, 2018, five retail dealer licenses starting on June 1, 2020, and six retail dealer licenses starting on June 1, 2022. The act maintains the limitation on three retail dealer licenses to one licensee with two exceptions: the limitation does not apply to a licensee who had an interest in retail liquor stores as of July 1, 1978, and a licensee may be issued up to three additional licenses, for a total of six, but only if they are seeking the additional licenses in counties with populations in excess of 250,000 residents. A licensee may obtain no more than two licenses per county in counties with a population in excess of 250,000 residents. However, if prior to March 21, 2018, the licensee already operated three retail licensed stores within a county with a population in excess of 250,000 residents, that licensee may be issued two additional retail licenses in that same county for a total of five licenses in the same county.

This act also limits any person, individually or as a member or stockholder of a partnership, corporation, association, or as a relative by blood or marriage within the second degree from having an interest in more than a maximum of six retail stores covered by retail dealers' licenses.

Finally, this act allows a licensed wholesaler to deliver "new alcoholic liquor," meaning any liquor that has not previously been sold in this State, to a person licensed to sell alcoholic liquors for on-premises consumption for the first 180 days that new alcoholic liquor is in the State. Previously, only licensed retail dealers with wholesaler's basic permits were permitted to deliver alcoholic liquor to restaurants and bars.

C. Criminal Law and Law Enforcement

Disturbing Schools
A. 182, R. 198, S. 131
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act redefines the offense of Disturbing Schools to exclude actions by students of that school. The offense of disturbing schools will only apply to non-students or students who are suspended or expelled and are on campus unlawfully, who wilfully interfere with, disrupt, or disturb the normal operations of a school if the person enters the school without permission, loiters after notice, assaults someone, is loud or boisterous after instruction to refrain from such conduct, or threatens physical harm or deadly force with the present ability to carry out the threat. The penalty is increased to not more than one year in prison or up to a two thousand dollar fine.

The bill also makes it unlawful for a student to threaten the life or the infliction of bodily harm upon another using any form of communication whatsoever, however, the act does not provide for a penalty for violations of this section.

Child Fatality Review Teams
A. 183, R. 199, S. 170
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act requires that after the death of a child under eighteen, the appropriate county coroner must establish a child fatality review team within seven working days of the death in order to review the case. The team shall consist of the county coroner or his designee, a local law enforcement officer, an agent from SLED, a child abuse pediatrician; a county DSS representative; and a forensic pathologist.

The act requires the county coroner to notify local DSS and request their involvement with a child death investigation to include involvement or services for siblings, family members, or persons responsible for the child. The act also provides that local DSS report the information to SLED's Department of Child Fatalities. The act details the purposes of the Child Fatality Review Teams and outlines the reporting requirements.

Specific information from the review team is confidential and not subject to subpoena, discovery, or FOIA if they are reviewing individual cases. Generalized information that does not identify an individual or statistical compilations of data would be public information. The act specifies that members of the review team, persons attending a meeting, or persons presenting information at a meeting may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, unless that information is obtained independently or is otherwise public information.

Upon funding by the General Assembly, the act requires full-time coroners to be paid at least $35,000 per year. Remaining funds are to be distributed according to county populations. The Coroners Training Advisory Committee shall have oversight over coroners to include the establishment of training requirements.

Graffiti Vandalism
A. 204, R. 222, S. 959
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act reduces the penalty for a first offense violation for the illegal graffiti and vandalism to a penalty of not more than thirty days or not more than a $1,000 fine.

Expungement
Act No. 254, R. 237, H. 3209
Ratified: May 14, 2018
Vetoed by the Governor: May 19, 2018
Veto overridden by both the House and the Senate: June 27, 2018
Effective Date: December 27, 2018

This act amends the expungement statute dealing with magistrate level offenses so as to allow for the expungement of any charge that carries 30 days or less or a fine of $1,000 as long as the expungement takes place three years from conviction. The act does the same for domestic violence convictions as long as expungement takes place five years from the conviction. This act allows expungement of an eligible offense regardless of whether the offense is the first conviction. Current law allows expungement of only the first conviction.

This act also creates a new expungement section for first offense simple possession or possession with intent to distribute drug offenses to include prescription drugs. The act allows for expungement of a first offense simple possession conviction three years from the date of completion of the sentence, to include probation and parole, and of a first offense possession with intent to distribute conviction twenty years from the date of completion of the sentence for any drug or felony conviction. This act does not allow a person's record to be expunged pursuant to this section if the person has had a conditional discharge within the five years prior to the date of arrest for the charge sought to be expunged if the charge sought to be expunged is simple possession of marijuana, or within the ten years prior to the date of arrest for the charge sought to be expunged if the charge sought to be expunged is for the simple possession of any other controlled substance or the unlawful possession of a prescription drug.

For purposes of expungement under (1) the expungement programs for convictions that carry 30 days or less or a fine of $1,000, (2) first offense simple possession and possession with intent to distribute drugs convictions, and (3) convictions pursuant to the Youthful Offender Act (YOA), this act allows convictions to count as a single offense if the individual received sentences at a single sentencing proceeding for convictions that are closely connected and arose out of the same incident.

For (1) convictions that carry 30 days or less or a fine of $1,000 and (2) first offense simple possession and possession with intent to distribute drugs convictions, this act does not allow for expungement if there is a charge pending unless that charge has been pending for more than five years; however, the five year time period would be tolled for any time the defendant is on an active bench warrant for failure to appear.

This act prohibits expungement not only if the youthful offender was convicted of anything in the five years following completion of his YOA sentence, but also if he was convicted of any offense while serving his sentence to include probation and parole. This act also prohibits expungement under the YOA if the conviction requires the individual to register for the sex offender registry. This act creates the ability for a person who fits the definition of youthful offender and who was convicted prior to June 2010 to get an expungement under the YOA.

This act also allows for those completing the traffic education program to be eligible for expungement and allows for expungement of a conviction based on a repealed statute as long as an existing statute has similar elements and is currently eligible for expungement. Additionally, the act allows for expungement under the

YOA, magistrate-level offenses, juvenile justice code, and first offense failure to stop for a blue light even where there are minor traffic-related offenses on the person's record as long as those offenses are not related to driving under the influence of either drugs or alcohol.

This act requires solicitors' offices to establish an account and implement policy and procedures to collect private funds to assist in defraying the administrative fee for expungement by up to fifty percent. This act requires the program be available on a first come, first serve basis. Solicitors are not be required to solicit or request funds.

If an employer hires a worker with an expungement, this act bars any administrative or legal claim or cause of action against an employer related to that worker's expunged offense. Except for criminal justice agencies, employers cannot use expungement information against their employees, and no information related to expungement can be used or introduced as evidence in any administrative or legal proceeding involving negligent hiring, negligent retention, or similar claims.

After initially amending the bill to remove some of the Senate's amendments, the House recalled the bill and concurred with the Senate's original amendments, allowing the bill to pass out of both chambers on May 10, 2018. On May 19, 2018, however, the Governor vetoed the bill. Both chambers overrode the Governor's veto on June 27, 2018.

Human Trafficking
A. 238, R. 238, H. 3329
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act eliminates the definition of "trafficking in persons" that was different from the elements of the offense. The act clarifies, without increasing, the penalty for trafficking in persons under the age of eighteen, by specifying that the penalty is not more than thirty years for a first offense, and not more than forty-five years for a second or subsequent offense.

The act provides that human trafficking specialized providers must be certified by the Attorney General through criteria established by the Human Trafficking Task Force. The Attorney General, through the task force, must also establish criteria for Human Trafficking Acute Crisis Care and Resource Centers to be created in South Carolina communities. Once the service providers are certified and assessment centers are open, the information must be distributed to the family court bench and bar, and law enforcement. The court must determine the most appropriate way to provide specialized services to juveniles to address the concerns related to human trafficking.

Finally, the act makes technical and clarifying changes to the language in the statute.

Youth Challenge Academy - Expungements
A. 262, R. 292, H. 3789
Conference Report Adopted by both Houses: June 27, 2018
Ratified: June 29, 2018
Signed by the Governor: July 2, 2018
Effective: July 2, 2018

This act allow an eligible youth (ages 16-19) to have his or her criminal record expunged upon graduation and successful completion of the one year SC Youth Challenge Academy and the SC Jobs Challenge Program for a magistrate conviction that carries thirty days or less, a first offense fraudulent check conviction, first offense failure to stop for a blue light conviction, or any qualifying conviction under the Youthful Offender Act. The South Carolina Army National Guard administers the SC Youth Challenge Academy and the SC Jobs Challenge Program. The eligible youth must graduate and successfully complete the SC Youth Challenge Academy and the SC Jobs Challenge Program, have no other conviction during the year long period of the program, and then apply for expungement. Upon receiving the expungement application, the circuit court can issue an order expunging the past criminal record. This opportunity is allowed only once. This act also makes existing expungement programs retroactive and allows for the expungement of a conviction based on a repealed statute as long as the repealed statute has similar elements to an existing offense that is eligible for expungement.

Littering
A. 214, R. 252, H. 4458
Ratified: May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act clarifies the definition of littering to include the unlawful disposal of cigarette butts and cigarette component litter. The act defines illegal dumping as disposing of more than fifteen pounds of any collection of solid waste, litter, or other materials including discarded deceased animals or deceased animal parts which create a hazard to the public health and welfare. Littering does not include deceased fish, game, and wildlife or the parts and remains thereof, taken as a result of legal hunting or fishing.

The act restructures the penalties to provide that a violation of up to fifteen pounds is a misdemeanor, minimum $25 fine and thirty days in jail; and a violation of up to fifteen pounds in an area or facility not intended for public deposit of litter or garbage is between a $50 and $150 fine and a minimum of sixteen hours of community service. The act provides that any person who commits a violation of greater than fifteen pounds up to five hundred pounds on any public or private property, any portion of the road right of way, fresh water lake, river, canal, stream, or tidal or coastal waters must be charged with illegal dumping of litter, and changes the maximum term of imprisonment to thirty days with sixteen hours of community service. For a second conviction, the penalty is a fine of $200 to $500, or up to thirty days in jail, and twenty-four hours of community service. For a third or subsequent conviction, the penalty is a fine of $200 to $500, up to thirty days in jail, and thirty-two hours of community service.

The act clarifies that the statute does not prohibit local governments from enforcing related ordinances, and provides that if there is a conflict between this section and the Solid Waste Policy and Management Act, the Act controls. The act adds that the fee paid in lieu of community service ordered by the judge shall be $15 for every hour ordered. Finally the act requires the Department of Public Safety to maintain statistical information regarding littering citations issued.

Law Enforcement Misconduct Hearings
A. 215, R. 253, H. 4479
Ratified: May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act would define law enforcement "misconduct" and provide for the procedure whereby a law enforcement agency is required to report officer misconduct to the Criminal Justice Academy within fifteen days of the final agency action. Notice of the report must be served on the officer personally or to his dwelling house. The officer accused of misconduct then can request a hearing from the Criminal Justice Academy to review his certification but must do so within three years.

The act further requires that a hearing must be held within sixty days unless a continuance is granted for cause. For any allegation of misconduct, SLED, the appropriate investigating agency, or the internal affairs division of the agency must complete their investigation within ninety days from the date of the request for a hearing by the officer unless they seek leave from the hearing officer to extend for a specified time period.

In addition to the other requirements specified, any finding as to the use of excessive force by a law enforcement officer must be reported to the academy by the appropriate agency or department within thirty days of the finding. This information must be maintained by the academy for investigative and personnel hiring purposes, however, this information is not public and not subject to disclosure other than to a law enforcement or prosecution agency, or attorneys representing a law enforcement or prosecution agency, except by court order.

Finally the act provides that if an officer with an allegation of misconduct is found not guilty or not at-fault, the records of the misconduct allegation must be expunged by the council within thirty days.

D. Family Law

Standing to File Petition for Adoption
Act 144, R. 0152, H. 3442
Ratified: April 3, 2018
Signed by the Governor: April 4, 2018
Effective Date: April 4, 2018

This act responds to *Youngblood v. DSS*, 402 SC 311 (2013) and *DSS v. Boulware*, 2016 WL 2944266 (which was reversed by the South Carolina Supreme Court on 1/3/18) by deleting the provision that currently prevents anyone from having standing to file a petition for adoption when a child is in DSS custody. The act is broader than the recent *Boulware* decision from the Supreme Court because it allows standing to petition to adopt even when DSS has placed a child for adoption.

The act also clarifies that nonresidents have the right to petition for adoption under a limited number of circumstances. The act adds two circumstances under which a nonresident may adopt: all persons who must currently give consent have done so or the department has placed the child with the nonresident of purposes of adoption.

The act deletes a provision that allowed for a child's notoriety to serve as a circumstance for a nonresident to petition to adopt and expressly prohibits the use of a child's notoriety to support standing to file a petition for adoption. The Family Court must make written findings that consent was given voluntarily and is not invalid due to lack of mental capacity or not being given voluntarily.

E. Government

Lieutenant Governor/Department on Aging
A. 261, R. 290, S. 107
Ratified: June 29, 2018
Signed by the Governor: July 2, 2018
Effective Date: Provisions in Part I concerning the Department on Aging become effective January 1, 2019; all other provisions are effective July 2, 2018

As amended in the Senate and House of Representatives, S. 107 contained provisions to: (1) provide procedures for the joint ticket; (2) require a single campaign committee for joint ticket candidates with a contribution limitation of $3,500; (3) allow time extensions for election law filings; (4) conform statutory language concerning the Lieutenant Governor, to make changes where needed for the President of the Senate, and to place responsibilities of the Lieutenant Governor under the Governor, who will determine the role of the Lieutenant Governor; (5) provide that the Division on Aging become a new cabinet level Department of Aging, with a director appointed by the Governor with the advice and consent of the Senate; and (6) direct the Code Commissioner to make a report concerning additional conforming changes by January 1, 2019, and the Joint Legislative Committee on Aging to submit a report recommending any additional changes to the Department on Aging created by this act to enhance efficient and cost effective delivery of services to the aging community in accordance with the federal Older Americans Act.

In addition, S. 107 as amended by the House of Representatives would contain provisions to provide for the Agency Head Salary Commission to commission a study to recommend a salary range for each state constitutional officer and the justices of the South Carolina Supreme Court.

With the passage of H. 4977 (Act No. 142 of 2018 -- See Summary Below), which contained the first three PARTS of S. 107, Senator Campsen introduced S. 1120, containing the remaining Senate passed provisions of S. 107. S. 1120 passed the Senate and was referred to the House Judiciary Committee.

On June 28, 2018, when the General Assembly returned to session, the Conference Committee for S. 107, which included Senators Malloy, Campsen, and Massey and Representatives G.M. Smith, Rutherford, and Simrill, requested and received free conference powers to pass S. 107 containing only the following provisions to: (1) provide that the Division on Aging become a new cabinet level Department of Aging, with a director appointed by the Governor with the advice and consent of the Senate; and (2) direct the Code Commissioner to make a report concerning additional conforming changes by January 1, 2019, and the Joint Legislative Committee on Aging to submit a report recommending any additional changes to the Department on Aging created by this act to enhance efficient and cost effective delivery of services to the aging community in accordance with the federal Older Americans Act.

Lieutenant Governor
A. 142, R. 151, H. 4977
Ratified: March 15, 2018
Signed by the Governor: March 15, 2018
Effective Date: March 15, 2018

This act contains the proposed statutory changes passed by the Senate in the first three PARTS of S. 107.

The act provides a statutory procedure for the joint election of the Governor and Lieutenant Governor, indicating deadlines for when and how a Lieutenant Governor must be selected. The act specifies that a joint ticket for Governor and Lieutenant Governor must have a single campaign account and the

campaign contribution limitation for the joint ticket is $3,500. In addition, the act authorizes that if the deadline for candidate filing falls on a Saturday or Sunday, the time is extended to the next business day and that the State Election Commission provide for regular business hours on the dates of candidate filings.

Special Purpose District Authorization to Transfer Artwork
A. 202, R. 220, S. 928
Ratified: May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act allows a special purpose district to transfer a work of art to a nonprofit corporation that displays the art in accordance with terms set by the governing body of the special purpose district. The act was introduced at the request of the Columbia Museum of Art, which was established by a 1949 act of the General Assembly that authorized it to acquire and maintain works of art, but not transfer those works. The Museum continued to operate under the provisions of the 1949 act, but later a 501(c)(3) organization was established on the Museum's behalf in order to provide protections not available to a governmental entity. When the museum recently went through the accreditation process, the American Alliance of Museums asked that property acquired by the government museum commission prior to the creation of the 501(c)(3) entity be declared to be part of the 501(c)(3) entity so to allow that property to be transferred with the 501(C)(3) entity protections. Because the authority to transfer is not specifically spelled out in the 1949 act creating the museum, it cannot be inferred by home rule legislation. *Evins v. Richland County Historic Preservation Commission*, 341 S.C. 15, 532 S.E.2d 876 (2000).

The act clarifies that any transfer must be: (1) to a nonprofit for the display of art to the public, (2) for such consideration and on the terms the governing body found sufficient; and (3) documented in writing. In addition, any money received for the transfer must be expended for the display of art.

Superintendent of Education
R. 235, H. 3146
Ratified: May 14, 2018
No Signature by the Governor Required

This joint resolution proposes a constitutional amendment that beginning in 2023 or upon a vacancy in the office of Superintendent of Education after the ratification of this amendment, the Superintendent of Education is appointed by the Governor with advice and consent of the Senate and serves at the Governor's pleasure. In addition, the constitutional amendment authorizes the General Assembly to provide for the duties, compensation, and qualifications for the position. This question must be placed on the ballot in the 2018 general election.

Native American Indian Groups
A. 163, R. 175, H. 3177
Ratified: May 1, 2018
Signed by the Governor: May 3, 2018
Effective Date: May 3, 2018

This act provides that any Native American Indian Group currently recognized by the Commission for Minority Affairs continues to be recognized and eligible to exercise their privileges and obligations. This act also requires the Commission for Minority Affairs to eliminate eligibility for additional Native American Indian Groups to be recognized, cease recognizing additional entities, and repeal any regulations providing for recognition of Native American Indian Groups. The Commission also must revise its regulations to eliminate recognition procedures and spell out what privileges and obligations recognized Native American Indian Groups are authorized to express.

Prior to the passage of this act, groups of "individuals assembled together, which have different characteristics, interests, and behaviors that do not denote a separate ethnic and cultural heritage...composed of both Native American Indians and other ethnic races...not all related to one another by blood..." could receive recognition as a Native American Indian Group by the Commission.

Renewable Water Resources
R. 273, H. 4980
Ratified: May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act revised the service territory and board membership of Renewable Water Resources (ReWa), formerly known as the Greenville County Sewer Authority and subsequently as the Western Carolina Regional Sewer Authority. The "Enoree Basin" in Spartanburg County was included in the service area and a map referenced that delineated the service area. The act added a board member from Spartanburg County, increasing the number of board members to 11 (one from Anderson County, one from Laurens County, two from Spartanburg County, and seven from Greenville County). Also, the act made technical and clarifying changes.

Horry/Georgetown Border
R. 278, H. 5154
Ratified: May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act was passed to provide a procedure for voters to determine the boundary between Horry and Georgetown counties, due to a misunderstanding concerning 199 parcels. The procedure begins with the Horry and Georgetown governing bodies requesting the annexation of the property mistakenly listed as being in Horry County although statutorily defined as lying within Georgetown County. Following that request, the Governor must form a commission to compile a report that meets all applicable statutory requirements for the transfer of properties between counties. Then, an election must be ordered for all qualified voters in the affected area. If two-thirds of the voters approve the change in county boundaries, the General Assembly, at its next session, shall provide by law for the alteration of the Horry-Georgetown County line.

F. Miscellaneous

Religious Instruction
A. 179, R. 195, S. 28
Ratified: May 14, 2018
Signed by the Governor: May 15, 2018
Effective Date: July 1, 2018

This act allows a public school district to rely upon an accredited private school's determination that a course met adequate academic standards. The act codifies the procedure upheld in *Moss v. Spartanburg School District Seven* (4th Cir. 2012) and avoids a public school district's unnecessary entanglement in deciding if the course content of off-premises religious instruction should be awarded Carnegie credits.

Pregnancy Accommodations Act
A. 244, R. 244, H. 3865
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act amends what is an unlawful employment practice to include discrimination based on pregnancy, childbirth, or related medical conditions. Under this act, it is an unlawful employment practice to fail or refuse to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions, unless such accommodations would cause undue hardship for an employer. This act amends the definition of "because of sex" or "on the basis of sex" by including lactation as an example of a related medical condition.

Other unlawful employment practices include denying employment opportunities so the employer would not have to make reasonable accommodations and requiring an applicant or an employee to unwillingly accept an accommodation if she did not have a limitation or if the accommodation would be unnecessary for job performance. It is unlawful for an employer to require an employee to take leave if a reasonable accommodation could be provided, and it is unlawful to take an adverse action against an employee for requesting/using a reasonable accommodation.

This act amends the definition of "reasonable accommodations" in the South Carolina Human Affairs law. The amendment also provides what employers are not required to provide as a reasonable accommodation as long as the employer is not providing the specific exemptions to other employees or class of employees.

This act requires written notice of the right to be free from discrimination for medical needs arising from pregnancy, childbirth, and related conditions to be provided to new employees at commencement of employment and existing employees within 120 days of the effective date. The notice must be posted in the employer's place of business.

This act allows the South Carolina Human Affairs Commission (SCHAC) to promulgate regulations to carry out the act, provided the regulations do not exceed the definition of "reasonable accommodation" requirements for employers under federal or state law.

This act also requires SCHAC to develop courses and public education efforts to inform employers, employees, employment agencies, and applicants about their rights and responsibilities.

G. Probate and Trusts

Governing Instruments Revoked upon Divorce
A. 250, R. 261, H. 4673
Ratified May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act amends the current definition of "governing instrument" in Section 62-2-507, which identifies what designations that are executed prior to a divorce, are revoked upon divorce, including powers of appointment, life insurance beneficiary designations, and other beneficiary designations.

This act excludes from the definition of "governing instrument" beneficiary designations made in connection with governmental employee benefit plans for state employees and other plans of political subdivisions of the state. This amendment to the statute is comparable to the definition of "governmental plans" in ERISA, which also excludes governmental employee plans.

This act also includes a technical correction by amending Section 30-5-30, which describes the requirements of recording a document. Section 30-5-30 is referenced in Section 62-8-105, which describes the requirements for the execution of power of attorney.

H. Property

Homeowners Associations
A. 245, R. 245, H. 3886
Ratified: May 14, 2018
Signed by the Governor: May 17, 2018
Effective Date: May 17, 2018

This act creates a new chapter, Chapter 30 in Title 27 entitled "Homeowners Associations."

The act:

(1) defines necessary terms;

(2) requires that the governing documents creating a homeowners association and rules and regulations be recorded with the clerk of court or register of deeds and that rules and regulations be accessible upon a member's request unless they are posted in a common area or available on a website;
   - (a) to continue to be enforceable, governing documents and rules and regulations must be updated by January 10 each year;
   - (b) those HOAs in existence on the effective date of the act must record their documents by January 10 following the act's passage;

(3) provides that a homeowners association give 48-hour notice of a meeting to increase the annual budget;
   - (a) notice may be posted in a conspicuous place, on the website, by electronic mail, or by methods to ensure actual notice;
   - (b) this requirement does not apply to an HOA incorporated under the South Carolina Nonprofit Corporation Act found in Chapter 31, Title 33;

(4) requires that the provisions of the Nonprofit Corporations Act relating to providing financial information and documents apply to a homeowners association, whether or not the homeowners association is organized as a Nonprofit Corporation;
(5) authorizes the Department of Consumer Affairs to receive complaints and make an annual report to the Governor, General Assembly, and public (via website) regarding those complaints; and
(6) grants concurrent civil jurisdiction in magistrate and circuit courts for certain actions between homeowners associations and homeowners.

The act also amends Section 27-50-40(A), relating to the mandatory disclosure statements required for the sale of property, to provide that a seller must disclose if the property is subject to governance of a homeowners association, as provided in Chapter 30 of this title, which carries certain rights and obligations that may limit the use of property and involve financial obligations.

I. Public Utilities, Services and Carriers

Experimental Rates Related to the V.C. Summer Nuclear Units
R. 285, S. 954
Ratified: June 28, 2018
Signed by the Governor: July 2, 2018
Effective Date: July 2, 2018

This joint resolution requires the Public Service Commission to hold a hearing on or after November 1, 2018 regarding requests made pursuant to the Base Load Review Act, with the final order to be issued by December 21, 2018. The joint resolution also suspends any provision in Title 58 related to utility rates related to V.C. Summer nuclear units 2 and 3 that could conflict with this joint resolution.

Eminent Domain for Pipeline Companies
A. 156, R. 166, S. 1101
Ratified: April 12, 2018
Signed by the Governor: April 17, 2018
Effective Date: April 17, 2018

This act extends the sunset provision from Act 205 from 2016, which clarified that a private for-profit company that is not defined in Title 58 as a public utility does not have the rights and powers given to telegraph and telephone companies, which includes eminent domain authority. The provisions of the original act would have sunset in June 2019; this act extends that period to November 30, 2020.

Base Load Review Act Amendments and Other Public Utility Related Matters
Act 258, R. 287, H. 4375
Ratified: June 28, 2018
Governor Veto: June 28, 2018
Veto Overridden: June 28, 2018
Effective Date: June 28, 2018

This act defines "imprudent" and "prudent" for the Base Load Review Act. "Imprudent" means a lack of caution, care or diligence in regard to an action or decision by a utility or one acting on its behalf. "Prudent" means a high standard of caution, care and diligence regarding any decision or action by the utility or anyone acting on its behalf. The Public Service Commission (PSC) would have to consider: (1) if the utility acted in a timely manner, and if passage of time resulted in increased costs it would weigh against a finding of prudence; (2) if imprudent actions or decisions led to a decision that could otherwise be prudent; and (3) if any other relevant factors, including a fraudulent act, are deemed to not be prudent. This act also repeals the Base Load Review Act, and prohibits the PSC from accepting new applications or requests as of the act's effective date.

This act sets experimental rates for SCE&G customers for a period from April 1, 2018 until the PSC issues its final order on the merits (December 21, 2018). This experimental rate eliminates amounts ordered pursuant to revised rate orders issued from 2011-2016. The experimental rate is approximately 3.2% of the "18%" nuclear rates in the average residential rate. The PSC must monitor the effect of the experimental rate, and adjust this rate if required for constitutional requirements. The PSC could consider an agreement by the Office of Regulatory Staff (ORS) and the utility regarding revised rates, as well as additional factors at the PSC's discretion.

The act requires that the Consumer Advocate receive notice of a filing at the PSC that could impact consumer rates and allows the Consumer Advocate to intervene as a party before the PSC and appellate courts. The Consumer Advocate must be an attorney with at least 8 years of experience.

The act defines the ORS's "public interest" as consumer concerns and preservation of the continued investment in maintenance of utility facilities for reliable and high quality utility services; it eliminates the prior consideration of economic development and a utility's financial integrity. The ORS can no longer represent the PSC on appeal. The ORS must treat information from utilities as confidential or proprietary without a confidentiality agreement or protective order. The utility could agree to release of information or the PSC could issue an order for public inspection. The ORS may request a subpoena from circuit court for entities over which the PSC does not have jurisdiction, if needed for the ORS to fulfill its duties.

J. Workers' Compensation

Workers' Compensation Commission Districts
A. 233, R. 277, H. 5153
Ratified: May 14, 2018
Signed by the Governor: May 18, 2018
Effective Date: May 18, 2018

This act amends Section 42-17-20 to require the South Carolina Worker's Compensation Commission hold hearings in the district in which the injury occurred. However, the hearings cannot be held greater than seventy-five miles from the county seat of the county in which the injury occurred, unless the parties otherwise agree and the Commission authorizes. The districts are defined as those designated by the Commission as of 1/1/18. For the purpose of this section, the "county seat" is the county courthouse.

II. OTHER BILLS OF INTEREST NOT ENACTED

A. Beer, Wine, and Liquor

Mandatory Alcohol Server Training Act
S. 115
Pending on the House Calendar

This bill would mandate that all persons serving alcohol at businesses licensed to sell alcohol for on-premises consumption after 5 p.m. must obtain alcohol server training and a certificate issued by the Department of Revenue (DOR) within sixty days of employment. DOR, working with the Department of Alcohol and Other Drug Abuse Services (DAODAS) and the State Law Enforcement Division (SLED), would approve the training programs, as submitted by different providers. The bill would specify the categories that must be included in any alcohol server training.

For the first three years after approval by the Governor, the State, through DAODAS, would provide alcohol server training at minimal costs, on a quarterly basis, in no less than seven locations around the state. After that, the fees that providers could charge for training would be limited to $50, which is the current fee for the required merchant alcohol education training, and the cost of an alcohol server certificate would be limited to $15. The alcohol server certificate would be effective for five years. Although the effective date for the provisions of the chapter and the provisions allowing regulations would be upon the signature of the Governor, the implementation and enforcement of the chapter provisions would be delayed for twelve months, in order to provide time for establishing the necessary programs and procedures.

The bill was amended in the House Judiciary Committee to eliminate a provision that would have required all tests be monitored by a manager or proctor. The bill then passed out of Committee favorably as amended on May 3, 2018. On May 9, 2018, several representatives requested debate on the bill, and the bill did not receive second reading.

Festival License
H. 3138
Pending in a Conference Committee of Senators Rankin, Hutto, and Rice and Representatives Erickson, Stavrinakis, and Bannister

The original bill as sent over by the House would allow a festival to sell beer, wine, and liquor by the drink at multiple locations on multiple days in one application and would define festival to mean a program of cultural events and entertainment. The bill also included language that passed last year in Act No. 62, dealing with micro-distillery tastings.

The bill as amended by the Senate would create a “festival liquor by the drink” license, which would be limited to one a year per license holder and could last up to 5 days as long as the festival has an expected impact to its community of over one millions dollars, has a projected attendance of thirty thousand people, and is engaged in tourism promotion. The license would require a defined area, enclosed by a fence or other enclosure that is at least eight feet high, with controlled access in order to make all buildings and grounds within a designated area part of the premises to allow liquor drinks to be carried throughout the festival area. The licensee would need to be primarily and substantially in the business of serving meals, would need to employ security for the festival that had been licensed by SLED, would need to have a procedure in place to verify individuals buying alcohol are 21 or older, would require distinct drink containers to

distinguish between alcoholic and non-alcoholic drinks, and would require liquor liability insurance of at least a million dollars. The license would have a fee of three thousand dollars and would cost thirty-five dollars to process the license application.

The House non-concurred with the senate amendments, and the bill was assigned to a conference committee.

B. Criminal Law and Law Enforcement

Drones over Military Bases
S. 109
Pending in Conference Committee

This bill would restrict the flying of unmanned aerial vehicles within the flight path of a federal military installation with restricted public access, without consent of the commander of the installation or his designee. This restriction would not apply to commercial operators who use the drones for monitoring electric, communication, water, or transportation infrastructure, who register with the FAA, and who notify the commander of the installation. The penalty would be a civil fine not to exceed $100.

Teen Dating Violence
S. 169
Pending in the House Judiciary Committee

This bill would add language to allow minors to file temporary restraining orders with the parent's or guardian's consent unless the court finds requiring parental consent before filing not to be in the best interest of the child. The bill would also amend statutory sections relating to comprehensive health education programs, so as to require that "teen dating violence" education programs be developed, taught at each level of education, and parents notified of the content of instructional materials.

Strangulation
S. 172
Pending on Senate Floor

This bill would create the offense of strangulation. The bill specifies that a person commits the offense of strangulation when, without consent, he impedes or creates a substantial risk of impeding the normal breathing or circulation of blood by applying weight or pressure to the throat, neck, torso, abdomen, or shoulders of the other person, or by blocking the nose or mouth of another person so as to restrict the breathing of the other person.

The bill would provide that the section would not apply if the strangulation was the result of a legitimate medical procedure or was an otherwise lawful action by law enforcement during the course of their duties.

The penalty would be up to five years in prison.

Threatening Damage or Injury with a Firearm at a School
S. 431
Pending on Senate Floor

This bill would make it unlawful for a person to threaten, solicit another to threaten, or conspire to threaten to cause damage, injury, or death, or to cause damage to or destroy property by use of a firearm or dangerous weapon on any premises or property owned, operated, or controlled by a private or public school, college, or university.

A person who is charged with a violation of this section shall, as a condition of his bond, undergo a mental health evaluation. If the mental health evaluation reveals that the person needs mental health treatment or counseling, the solicitor may refer him to a mental health court or the court shall require him to undergo mental health treatment or counseling.

The penalties would be a misdemeanor resulting in up to two years in prison or a fine of up to $2,000. If the violation results in property damage, up to three years in prison and up to a $3,000 fine. If the violation causes injury or death, the penalty would be a felony with up to five years in prison and up to a $5,000 fine.

Constitutional Carry
S. 449
Pending in Senate Judiciary Committee

The bill would make it lawful for any person to carry a firearm in public by repealing the unlawful carrying a firearm statute. The bill would restrict the carrying of a firearm in certain locations including law enforcement facilities, jails and prisons, courthouses, offices or meetings of a local government, churches, schools, medical facilities, or a place clearly marked with a sign. The bill conforms the law allowing a person with a CWP to carry a firearm into a business that sells alcohol to include anyone lawfully carrying. The bill would allow any person who is allowed to park on statehouse grounds to possess a firearm if the firearm remains in a locked vehicle and is not readily accessible. The bill also would repeal the carrying a concealed weapon criminal violation and would conform other firearms restrictions.

Criminal Reporting Time Limits
S. 516
Pending on Senate Floor

The bill would require clerks of courts of General Sessions, family courts, magistrate courts, and municipal courts to report to SLED within five days the disposition of each criminal case, and report the issuance of a restraining order, order of protection, order for the prevention of possession of a firearm, convictions or orders related to domestic violence, and convictions or orders related to stalking, intimidation, or harassment.

Also, the bill would create the Judicial Criminal Information Technology Committee whose charge would be to review current law enforcement information technology and to report and recommend to the General Assembly the implementation of an accurate and secure centralized court reporting system to tie together the information technology of law enforcement, prosecution, and the courts.

Desecration of Human Remains
S. 517
Pending in a Senate Judiciary Committee

The current statute identifies 3 different crimes: stealing from a burial site, damaging a burial site, and desecrating the remains of a deceased human being. This bill would provide enhanced penalties for bias motivated crimes regarding human remains and desecration of burial places. A subcommittee amendment would make technical corrections to the bill and would adjust the enhanced penalties.

Child Victims of Trafficking
S. 541
Pending in House Judiciary Committee

This bill would provide that the definition of "child abuse or neglect" or "harm" would include "a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child's welfare." This change in the definition would allow child victims of human trafficking to get help from the Department of Social Services.

Juvenile Sex Offender Registry
S. 560
Pending before the Senate Judiciary Committee

This bill, as amended in subcommittee, would prohibit children under the age of fourteen from being required to register as a sex offender. This bill would also give the family court discretion in determining whether a child fourteen years of age or older who has been adjudicated delinquent is placed on the sex offender registry and would create additional factors that the family court shall consider in determining whether a juvenile is placed on the sex offender registry. Those factors would include a psychosexual assessment by the Department of Juvenile Justice; mitigating factors, including an assessment of the juvenile's history of sexual or physical victimization and other adverse childhood experiences; and aggravating factors, to include the severity of offense. This bill would also specify that if the family court orders the juvenile to be placed on the sex offender registry, the family court shall also determine the availability of the information (public or private registry). This bill would amend the statutory section stating that information on a child adjudicated delinquent in family court must be listed on the public registry so as to require public registry for only the following charges: Criminal Sexual Conduct in the First Degree; Criminal Sexual Conduct in the Second Degree; Criminal Sexual Conduct in the Third Degree; and assault with intent to commit Criminal Sexual Conduct in the first, second, or third degree. This bill was amended in subcommittee and voted out favorably as amended; however, it did not make the full committee agenda before crossover.

Juvenile Status Offenders
S. 580
Pending before the Senate Judiciary Committee

Currently, a child who commits a status offense, which is defined as an offense which would not be a misdemeanor or felony if committed by an adult, can be committed to a secured facility for no more than ninety days. This bill, as amended in subcommittee, would limit when a child who has committed a status

offense can be committed to a secured facility so that confinement in a secure facility can occur only when the child has been adjudicated delinquent both for a status offense that is not truancy and for violating a court order to successfully complete a placement in a non-secured, corrective environment. This bill was amended in subcommittee and voted out favorably as amended; however, it did not make the full committee agenda before crossover.

Failure to Stop for Blue Light
S. 773
Pending in Senate Judiciary Subcommittee

This bill would increase the penalties for the crime of Failure to Stop for a Blue Light. For a first offense, the penalty would be a mandatory minimum sentence of three years up to five years in prison. For a second offense, the penalty would be a mandatory minimum of ten years up to fifteen years in prison. If great bodily injury occurred, the penalty would be a mandatory fifteen up to twenty years in prison. If the failure to stop resulted in a death, the penalty would be a mandatory twenty-five years up to thirty years in prison. No part of the sentence imposed is able to be suspended nor would probation be granted.

Breach of Trust
S. 802
Pending in House Judiciary Committee

This bill would define and codify the common law violation for breach of trust with fraudulent intent as, after receiving property in trust, a person misappropriates, conceals, releases, destroys, or otherwise converts the property, in whole or in part, for his benefit or the benefit of another person who is not an interest holder, and does so with the intent to deprive of its use. The bill also includes that a person who hires or counsels another to commit a breach of trust violates this provision.

This bill also adds to the elements of obtaining goods under false pretenses, to include the "fraudulent promise to perform."

Finally the bill establishes definitions for false pretense, interest holder, personal property, promise to perform, real property, and trust.

Driver's License - Definition of Crime of Violence
S. 834
Pending in House Judiciary Subcommittee

This bill would change the definition of "crime of violence" for those required to have a special code on their driver's license upon a conviction of a crime of violence, by referencing § 16-1-60.

Ignition Interlock Device
S. 982
Recommitted to Senate Judiciary Committee

This bill would require a three-month ignition interlock device to be installed on a driver's vehicle as a pre-requisite to obtaining a temporary alcohol restricted license after a suspension related to a charge for driving

under the influence (DUI) and would eliminate provisions relating to route-restricted licenses. This bill would give credit on an implied consent suspension for the time an ignition interlock device is installed on the driver's vehicle while the driver holds a temporary alcohol restricted license.

This bill would impose ignition interlock device requirements to a first offense DUI, regardless of whether the driver blew over .15 or refused. For habitual traffic offenders and DUI offenders who are under the age of 21, this bill would now allow the option to get an ignition interlock device instead of serving a full suspension. However, habitual traffic offenders would not be able to participate in the indigent fund to cover the cost of the ignition interlock device and would not be eligible for an "employer exception" to drive an employer's vehicle without an ignition interlock device.

This bill would also make ignition interlock device records those of the South Carolina Department of Probation, Parole and Pardon Services to comply with the hearsay exception of public records and reports and would also make ignition interlock device manufacturers responsible for the cost of device certification fees.

This bill would allow people whose driver's licenses have been permanently revoked after passage of Emma's Law to have the same method of relief available to people who were permanently revoked before Emma's Law. It would also apply ignition interlock device requirements to anyone who drives in South Carolina instead of limiting it to South Carolina residents. The bill would have an implementation date of one year after approval by the Governor.

The Senate Judiciary Committee voted this bill out favorably on March 21, 2018, and the Senate adopted an amendment to exclude motorcycle drivers from ignition interlock device requirements on March 29, 2018. The bill did not receive second reading, and the Senate moved to recommit the bill to the Senate Judiciary Committee on May 8, 2018.

ABHAN upon a Health Care Worker
S. 1096
Pending in Senate Judiciary Subcommittee

This bill would expand the definition of the crime of assault and battery of a high and aggravated nature to include unlawfully injuring someone in a health care facility or a physician's office at the time of injury, or unlawfully injuring a healthcare professional, if the injuring person knows or has reason to know of the injured person's status. The bill provides that the definition of a healthcare professional includes emergency medical service providers, firefighters, emergency room physicians, emergency room nurses, or allied health care workers, during the course of their duties.

Restorative Justice Study Committee - "Schoolhouse to Jailhouse Pipeline Act"
H. 3055
Returned to the House from the Senate with amendments

The original bill would create the "Restorative Justice Study Committee" to review the juvenile justice laws of the State and make recommendations and proposed changes to facilitate and encourage diversion of juveniles from the juvenile justice system to restorative justice practices. The committee would make recommendations concerning a related pilot program and would provide requirements for creation of a pilot restorative justice program.

This original bill would provide a definition for "restorative justice practices," which means practices that emphasize repairing the harm caused to victims and the community by offenses.

The bill, as amended by the Senate, would require the study committee shall make a report of its recommendations to the General Assembly by 9/1/2019 at which time it would dissolve. The Senate amendment also deleted the definition of "restorative justice practices."

The Senate amended the bill, which would (1) change the name to the "Juvenile Restorative Practices Study Committee," and (2) have the committee focus its review on juvenile justice laws and statutes, regulations, and policies of schools, DJJ, DSS, DMH, law enforcement, the courts, and other public institutions or private organizations as deemed appropriate. The amendment removed references to the restorative justice pilot program. The amendment also included specific data and statistics the committee would consider in the review process. The amendment also would change the composition of the committee to include members appointed by the Commission on Indigent Defense, Commission on Prosecution Coordination, DJJ, Family Court, DMH, Superintendent of Education, and House and Senate members appointed by the House and Senate Judiciary Committees.

Coroner Fees
H. 3197
Pending in Senate Judiciary Subcommittee

This bill would prohibit the coroner of each county from charging fees for the issuance of permits for cremation and permits for Burial-Removal-Transit.

Terrorism
H. 3208
Pending in Senate Judiciary Subcommittee

This bill would create the offense of Furthering Terrorism. A person commits the offense if he makes significant plans or actions toward the commission of an act of violence with the intent to commit an act of terrorism. The penalty would be up to thirty years in prison. The sentence must be consecutive to any underlying offense.

This bill would also create the offense of Material or Financial Support or Concealment of Terrorism. A person commits the offense if he knowingly raises, solicits, or collects material support or resources intending that the support or resources be used to plan, prepare, carry out, or avoid apprehension for committing an act of terrorism and whose intent is that the material support or resources will be used for those purposes. It would also be a violation if the person provides material support or resources to a person knowing that the person will use that support or resources to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism or conceals the actions or plans of another person who he knows is engaged in an act of terrorism.

The penalty would be up to twenty years in prison. Real and personal property used or intended for use to support terrorism may be seized.

Illegal Immigration Unit
H. 3318
Pending in Senate Judiciary Subcommittee

This bill would move the Illegal Immigration Enforcement Unit from the Department of Public Safety to SLED. The unit's purpose is to enforce the immigration laws as authorized by the federal laws and the laws of this State. The unit currently has twelve full-time employees and a budget of almost $550,000 per year.

C. Family Law

Alimony
S. 92
Recommitted to Senate Judiciary Committee

This bill would require the enumerated factors that currently only apply to making an award of alimony to be considered by the court when making, *modifying*, or *terminating* an award of alimony or separate maintenance and support. This bill would exclude the past, present, or anticipated earnings of a *subsequent spouse*, in the event of remarriage, to be considered by the court when making, modifying, or terminating the award of alimony.

An amendment to this bill would (1) set out factors the court must consider when determining substantially changed circumstances when *modifying*, *suspending*, or *terminating* alimony; (2) provide factors to determine whether retirement should lead to modification, suspension, or termination of alimony in amount or term; and (3) exclude past, present, or anticipated earnings of a *subsequent spouse*, in the event of remarriage, to be considered by the court when making, modifying, or terminating the award of alimony; and add definitions for terminate, suspend, and modify.

The committee amendment also would provide for <u>two</u> new forms of alimony (both finite in nature):

(1) *Transitional alimony* - a form of support to assist with the transition of the supported spouse to new financial circumstances, lifestyle, or location, that would terminate upon the death of either spouse or a finding of continued cohabitation or could be modified, suspended, or terminated based on substantially changed circumstances, and

(2) *Fixed term alimony* - a form of support to allow a finite award to an economically dependent spouse where the court finds it appropriate to make a current determination for a fixed term of support. Fixed term alimony would terminate upon remarriage, expiration of the fixed term, continued cohabitation, or death of either spouse and could be modified, suspended, or terminated based on substantially changed circumstances.

In addition, the committee amendment would change the definition of cohabitation to a mutually supportive, intimate personal relationship in which the supported spouse and another person undertake duties and privileges commonly associated with marriage. Further, a supported spouse and the co-habitant would not be required to maintain a common household and the 90-day requirement for co-habitation would be removed and would delete the language providing that alimony for a period exceeding the duration of marriage would constitute sufficient grounds for the court to modify, terminate, or establish a fixed duration of time for any further payment obligation.

Another amendment to the committee amendment, which was adopted by the Senate, would not allow adultery to serve as a bar to alimony, if the couple had been separated for at least 1 year prior to the relationship.

Family Court Study Committee
S. 211
Pending in a Senate Judiciary Committee Subcommittee

This joint resolution would create the "South Carolina Family Court Study Committee" to review Family Court policies, practices, and procedures regarding temporary hearings, the guardian ad litem program, mediation requirements, child support, alimony, and other issues relating to the Family Court system, and to make recommendations to the General Assembly by 12/31/18. This joint resolution would state that the study committee shall consist of 3 members from the Senate and 3 members from the House of Representatives to be appointed by the respective chairmen of the Senate and House Judiciary Committees.

Child Support, Income Withholding
S. 1003
Pending in Full Committee

This bill would amend the child support enforcement section of the code, to change references to the clerk of court to "authorizing agency" where the clerk of court is allowed to perform certain actions, including issuing notices, receiving child support payments, etc. This bill would define "authorizing agency" as the clerk of court or the Child Support Services Division of the Department of Social Services.

D. Government

Convention of States
S. 547
Reported out favorably by the Senate Judiciary Committee

This concurrent resolution would be the General Assembly's application to Congress, under the provisions of Article V of the Constitution of the United States, for calling a convention of the states limited to proposing a constitutional amendment requiring that, in the absence of a national emergency, the total of all federal appropriations made by Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

Sheriffs' Elections
S. 1124
Pending in the House Judiciary Committee

This bill would provide by law that sheriffs' elections could be held in non-Presidential election years.

Currently, two provisions in the Code specify that sheriffs' elections be held along with certain other offices during a year when there is a general election for the President. Act No. 971 of 1966 and Act No. 1082 of 1968 provided that sheriffs in the counties of Beaufort, Berkeley, Cherokee, Hampton, and Kershaw be held "every alternative general election."

This bill would conform existing code provisions with the election schedule for sheriffs in the five counties that are mentioned in the 1966 and 1968 acts.

An Attorney General's opinion requested by Representative Putnam indicated that certain exceptions to the general statute likely would be upheld.

County Clean-Up Ordinance
H. 3896
Reported out favorably by the Senate Judiciary Committee

This bill would add provisions allowing county governments to provide ordinances to keep residential and commercial properties free of rubbish, debris, or other unhealthy conditions rendering the properties a public nuisance. Currently, similar statutory provisions allow municipalities this authority. This bill would not apply to farmland or lands used for agricultural, forestry, burial, or archaeological purposes and includes a procedure for appealing a county's decision concerning the property.

E. Miscellaneous

Personhood
S. 217
Pending second reading on the Senate Calendar

This bill would establish that the right to life for each born and preborn human being vests at fertilization. This bill would also provide that the rights of due process and equal protection, guaranteed by Article I, Section 3 of the Constitution of this State, vest at fertilization, by classifying fertilized eggs as persons. These rights would be "personhood rights." The bill would guarantee that no person shall be deprived of life without due process of law, nor shall any person be denied the equal protection of the laws, and this bill would extend these rights to fertilized embryos.

The bill would specify that it shall not be construed to prohibit medical treatment to a pregnant woman that is intended to prevent her death as long as all reasonable medical efforts are made to preserve both the life of the mother and of the preborn human. The bill would require that the threat of death to a pregnant woman could not be based on a mental or emotional condition of the pregnant woman or a claim that the pregnant woman may purposefully engage in conduct that she intends to result in her death. The bill would also clarify that it would not prohibit contraception, which would be defined as the "prevention of fertilization," and that it would not prohibit in vitro fertilization or assisted reproductive technology. The bill would specify that regulation of in vitro fertilization and assisted reproductive technology procedures is to be reserved by the Legislature.

The Senate Judiciary Committee reported the bill out favorably with amendments on February 21, 2018, and the committee report was adopted by the Senate on May 1, 2018. After adoption of the committee report, the bill remained contested and did not receive second reading.

Vulnerable Adults
S. 403
Pending in a Senate Judiciary Committee Subcommittee

This bill would provide for the right of a vulnerable adult, or an authorized representative of a vulnerable adult, to file a civil action for financial exploitation of the vulnerable adult. A person against whom a civil judgment has been entered would be liable to the vulnerable adult or to the estate of the vulnerable adult in damages of treble the amount of the value of the property obtained, plus reasonable attorney's fees and court costs. The burden of proof would be a preponderance of the evidence. The bill would provide it would not be a defense to financial exploitation of a vulnerable adult if the defendant reasonably believed the victim was not a vulnerable adult.

Action could be sought under this section whether or not the defendant has been charged or convicted of exploitation of a vulnerable adult pursuant to Section 43-35-85. This section would not limit or affect the right of a person to bring a cause of action or seek any other remedy available under law arising out of the financial exploitation of the vulnerable adult.

If the amount of controversy of a civil action filed pursuant to this section involved the taking or loss of property valued at more than $5,000, the attorney representing the vulnerable adult's interest could file a petition with the court to freeze the assets of the defendant in an amount equal to, but not greater than the alleged value of the lost or stolen property for purposes of restitution to the victim. The burden of proof required to freeze the defendant's assets would be a preponderance of the evidence.

However, nothing in this section could be construed to impose criminal liability for financial exploitation of a vulnerable adult on a person who has made a good faith effort to assist the vulnerable adult in the management of the vulnerable adult's property, but who through no fault of the person's own has been unable to provide assistance.

Amendments adopted by the subcommittee would clarify that the Department of Social Services (DSS) is not required to serve as a person legally authorized to bring a legal action on behalf of the vulnerable adult representative and would amend the definitions of intimidation and exploitation.

A South Carolina Bar working group studied this bill in order to provide information to the subcommittee. The working group and other stakeholders provided information and drafted S. 1041 Vulnerable Adults, which went through the Senate Banking and Insurance Committee and was signed into law and became effective May 3, 2018. S. 1041 created a right of action and established a misdemeanor and felony charge for individuals that used deception, intimidation, undue influence, or deceptive acts to wilfully solicit or obtain money, property, or personally identifying information of a vulnerable adult.

F. Property

Condemnation of a Conservation Easement
S. 981/H. 4889
Pending in a Senate Judiciary Committee subcommittee

S. 981 and H. 4889 would provide a new section to the Conservation Easement Act to set out a procedure by which a holder of a conservation easement may contest a condemnation. Currently, the Conservation Easement Act allows for the condemnation of a conservation easement, but does not have a procedure for contesting such a condemnation. This new section would provide a procedure to contest the condemnation, the result of a successful contest, and exceptions to contest.

Standardized Court Fees
H. 3337
Considered by the Senate Judiciary Committee

This bill would set out a three-tier structure to standardize mostly property-based fees charged by a clerk of court or Register of Deeds to provide that the fees be grouped in $25, $10, or various amounts categories. In standardizing fees, any current per page cost fee would be eliminated. Currently, there is a list of twenty-four items with various fees including per page fees, which are difficult to calculate. This purpose of this proposed standardized fee structure would be to give a more efficient and error free method of calculating fees, not increase fees. A clarifying amendment was adopted by the subcommittee to reinstate some inadvertently deleted language and make the effective date July 1, 2018, in order to give offices time to prepare for the changes. Fiscal impact information was incomplete at the time of the bill's consideration, but indicated that, at least in one county, revenue could be increased substantially by the proposed changes, particularly vacation timeshare filings. During its discussion of the bill, the Senate Judiciary Committee received word that the Registers of Deeds association requested the bill be studied over the summer and reintroduced next session.

G. Public Utilities, Services and Carriers

Cost Methodology and Standards for Energy Obtained from Small Power Producers
S. 890
Recommitted to Senate Judiciary Committee

This bill would require the Public Service Commission to hold proceedings to review and approve electrical utilities' avoided costs methodologies, standard offers, and interconnection standards. This bill would also establish requirements for power purchase agreements between an electric utility and small power producer.

Office of Regulatory Staff Request for Production of Documents
S. 1128
Pending in House Judiciary Committee

This joint resolution would allow the Executive Director of the Office of Regulatory Staff to file an action for injunctive relief in circuit court requiring the production of documents or witnesses under the following circumstances: (1) an entity provided goods or services to a utility for the design, construction or operation of a facility in South Carolina that has been subject to a proceeding under the Base Load Review Act; (2) the production of documents or witnesses is necessary for the Office of Regulatory Staff (ORS) to accomplish its responsibilities; and (3) the entity has refused to provide the requested documents or witnesses. This action would be filed in the county where the facility is located.

Offshore Wind-Resource Development
H. 4304
Pending on Senate Calendar

This bill would permit the Public Service Commission (PSC) to adopt procedures that encourage electrical utilities to invest in offshore wind-resource development activities if the procedures are in the best interest of South Carolina's ratepayers. The PSC could not approve an application for offshore wind-resource development unless it found that the application is reasonably expected to result in the development of energy resources that benefit South Carolina and are in ratepayers' best interest considering: (1) reduced electric rates; (2) economic development benefits for residents within the State; and (3) environmental impacts.

This bill would also allow the PSC to authorize a pilot program that would encourage the construction, lease or purchase of renewable generation sources on a former hazardous waste site that is within the Department of Health and Environmental Control's oversight. Such a program could receive the tax credits as provided in Section 12-6-3770(A), with those tax credits beginning in 2018 until the credits have been fully claimed.

III. INDEX

BILLS BY NUMBER

BILLS, ALPHABETICALLY BY SUBJECT