



Criminal Law Update

Senator Gerald Malloy

Law Enforcement and Body-Worn Cameras

A. 71, S. 47

Effective Date: June 10, 2015



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Senator Clementa Pinckney's Speech:

<https://www.youtube.com/watch?v=zofDAKqgFDc>

Law Enforcement and Body-Worn Cameras

A. 71, S. 47

Effective Date: June 10, 2015

- Law enforcement agencies shall implement body-worn cameras pursuant to guidelines developed by the Law Enforcement Training Council (LETC).
- Within 180 days of the effective date, the LETC shall develop the guidelines.
- The LETC released the guidelines in December 2015.

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- Law enforcement agencies shall develop policies and procedures for the use of body-worn cameras pursuant to the guidelines.
- Within 270 days of the effective date, agencies shall submit the policies and procedures to the LETC for approval.
- Agencies are in the process of submitting policies and procedures to the LETC.

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- A “Body-Worn Cameras Fund” is established within the Department of Public Safety (DPS) for the purpose of implementing the body-worn cameras.
- Upon approval of a law enforcement agency’s policies and procedures, the agency may apply for funding.
- A law enforcement agency is not required to implement the use of body-worn cameras until the agency has received full funding.
- The 2015-2016 General Appropriations Act appropriates \$3.4 million for the Body-Worn Cameras Fund. \$1 million is allocated for the initial purchase of cameras, while \$2.4 million is allocated for data storage. \$2.4 million is recurring.

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- Data recorded by a body-worn camera is not a public record.
- SLED, the Attorney General, and solicitors may request and must receive data for a legitimate criminal justice purpose.
- A law enforcement agency, SLED, the Attorney General, or a solicitor may release data in its discretion.
- A law enforcement agency may request and must receive data if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of an officer.

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- The following are also entitled to request and receive data pursuant to the SC Rules of Criminal Procedure, the SC Rules of Civil Procedure, or a court order:
 - (1) a person who is the subject of the recording;
 - (2) a criminal defendant if the recording is relevant to a pending criminal action;
 - (3) a civil litigant if the recording is relevant to a pending civil action;
 - (4) a person whose property is involved with a crime to which the recording is related;
 - (5) a parent or guardian of a minor or incapacitated person in subitem (1) or (2); and
 - (6) an attorney for a person described in subitems (1) through (5).

South Carolina Sentencing Reform



South Carolina Sentencing Reform

- SC's prison population nearly tripled between 1983 and 2009, rising from approximately 9,000 inmates to more than 25,000.
- During this span, annual operating costs for prisons grew more than 500%, from \$63.7 million to \$394 million.
- Absent policy changes, the state correctional population was projected to grow by another 3,200 inmates within five years (to approximately 28,000) while costing taxpayers an additional \$141 million in annual operating expenditures and \$317 million for the construction of more prison space.

South Carolina Sentencing Reform

- This data led state lawmakers to pass the Omnibus Crime Reduction and Sentencing Reform Act of 2010.
- The Act sought to use tax dollars more effectively and improve public safety by concentrating prison space on high-risk and violent offenders, requiring supervision for those leaving prison, and improving the quality of supervision for those on probation and parole in an effort to reduce recidivism.
- Five years after the enactment of the law, SC is seeing significant successes.

South Carolina Sentencing Reform

- The average daily prison population has declined 11.8%.
- Annual admissions to the Department of Corrections have decreased 31%.
- The Department of Corrections has closed 3.5 prison facilities.
- The recidivism rate of inmates has decreased 2.6%.

South Carolina Sentencing Reform

- Probationers who have successfully completed supervision has increased 12%.
- Parolees who have successfully completed supervision has increased 6%.
- The recidivism rate of persons admitted to PPP custody has decreased 3%.

South Carolina Sentencing Reform

- State correctional savings total at least \$24.8 million.
- The Clemson Institute for Economic and Community Development has estimated that the Act has resulted in at least 982 new jobs, and a \$37 million increase in the state's gross product and other economic and social benefits.
- According to FBI statistics, between 2010 and 2013 (the most recent year for which data is available), SC's violent crime rate declined 16%, while its property crime rate decreased 7%.

“Domestic Violence Reform Act”

A. 58, S. 3

Effective Date: June 4, 2015



“Domestic Violence Reform Act”

A. 58, S. 3

Effective Date: June 4, 2015

The Act established degrees of domestic violence.

- DVHAN - “Extreme indifference to the value of human life”
Felony = not more than 20 years
- DOMESTIC VIOLENCE IN THE 1st DEGREE – “Great bodily injury”
Felony = not more than 10 years
- DOMESTIC VIOLENCE IN THE 2nd DEGREE – “Moderate bodily injury”
Misdemeanor = \$2,500-\$5,000, not more than 3 years, or both
- DOMESTIC VIOLENCE IN THE 3rd DEGREE – “Harm or injury”
Misdemeanor = \$1,000-\$2,500, not more than 90 days, or both

“Domestic Violence Reform Act”

A. 58, S. 3

Effective Date: June 4, 2015

The Act provides that it is unlawful for a person to possess a firearm or ammunition if the person is convicted of a domestic violence offense.

- DVHAN = Ban for life
- DOMESTIC VIOLENCE IN THE 1st DEGREE = Ban for 10 years
- DOMESTIC VIOLENCE IN THE 2nd DEGREE and the court made a specific finding of moderate bodily injury or the judge ordered that the person is prohibited from possessing a firearm or ammunition = Ban for 3 years
- DOMESTIC VIOLENCE IN THE 3rd DEGREE and the judge ordered that the person is prohibited from possessing a firearm or ammunition = Ban for 3 years
- SUBJECT TO AN ORDER OF PROTECTION issued pursuant to Chapter 4, Title 20, the court made specific findings of harm, and the court ordered that the person is prohibited from possessing a firearm or ammunition = Ban for the duration of the order of protection

“Domestic Violence Reform Act”

A. 58, S. 3

Effective Date: June 4, 2015

The Act established permanent and emergency restraining orders.

- A victim or witness can now obtain a permanent restraining order instead of a temporary restraining order (only lasts up to 1 year).
- A victim or witness can now obtain an emergency restraining order while awaiting a temporary or permanent restraining order.

“Domestic Violence Reform Act”

A. 58, S. 3

Effective Date: June 4, 2015

- The Act added Domestic Violence in the 1st Degree to the list of violent crimes and Domestic Violence in the 1st Degree and DVHAN to the list of serious offenses.
- The Act improved bond hearings for domestic violence cases.
- The Act improved victim services for domestic violence cases.
- The Act requires batterer treatment for domestic violence offenders.
- The Act established the State’s “Domestic Violence Advisory Committee” and local “Community Domestic Violence Coordinating Councils.”
- Beginning with the 2016-2017 school year, for grades 6-8, the Act requires that instruction in comprehensive health must include the subject of domestic violence.