

FOUR POINT PLAN TO HOLD REPEAT OFFENDERS ACCOUNTABLE & TO RESOLVE THEIR CASES MORE EXPEDITIOUSLY

★ Increase Options for Low Level and First Time Offenders:

- Remove Obstacles to the Expungement Process and to Diversion Programs like Pretrial Intervention and Drug and Mental Health Courts
- Support Sentence Reform for Certain Low Level, Non-Violent Offenders

★ Expand the Use of “PR” Bonds for Low Level and First Time Non-Violent Offenders

★ Begin Legislative Process for Law Enforcement and Solicitor’s Proposed Legislation

★ ENFORCE BOND CONDITIONS!

- Continue to Aggressively Pursue Revocations Under Current Law
- Increase the Pressure of Bond Estreatments for Offenders’ “Bad Behavior”
- Increase Solicitor and Law Enforcement Presence at Initial Bond Settings
- Support Senator Senn’s Legislative Proposals for Minimum Bond Requirements

EXECUTIVE SUMMARY OF PROPOSALS

1. Sentencing Enhancement for Dangerous Repeat Offenders Convicted of Committing a Crime While on Bond

- Provides for a mandatory five-year consecutive sentence (unless there is a longer mandatory minimum sentence, then concurrent). This is akin to the current Possession of a Firearm During the Commission of a Violent Crime sentencing structure.

2. Rebuttable Presumption of Detention/Bond Revocation for Dangerous Repeat Offenders

- Expands the cases for which the Circuit Court must set bond from only violent crimes (17-15-55(C)) committed while on bond for violent crimes, to include situations where person was on bond for and charged anew for:
 - CSC 3rd, DV 1st or 2nd degree, Strong Arm Robbery, Title 16, Chapter 23 Weapons Offenses; child pornography and failures to register as a sex offender, child abuser, OR
 - Was released from prison within 5 years for a violent crime or offense listed above
- Allows an evidentiary bond hearing and for this hearing to substitute for the prelim.
- Upon finding of probable cause that the crime was committed, provides for a **rebuttable presumption for detention** for those who have committed a violent crime and a rebuttable **presumption for revocation** for those who are on other bonds
 - Note: South Carolina's Constitution provides that bail may be denied for persons charged with violent offenses giving *due weight to the evidence* and to the nature and circumstances of the event (i.e., the facts and strength of the case).
 - Our Courts have consistently held that revocation (and estreatment) of bonds is appropriate for violating the good behavior clause of the bond contract. *See State v. Workman*, 274 S.C. 341, 343 (1980); *State v. Mitchell*, 421 S.C. 365 (2017)

3. Sentencing Enhancements for Repeat Offenders-- *Guns*

- Focuses on behavior that has been deemed criminal for decades in Title 16, Chapter 23
- Provides for enhanced sentences for repeat offenders—those convicted of second offenses and those convicted of third or more offenses.
- Treats Gun abusers much like shoplifters and those who repeatedly drive under the influence or under suspension.

The seal of the North Carolina Fourth Circuit Solicitor's Office is a circular emblem with a serrated outer edge. The outer ring contains the text "NORTH CAROLINA" at the top and "SCARLETT A. WILSON" at the bottom, separated by two stars. The inner circle features a central figure, likely a personification of Justice, holding a scale and a sword. The text "SOUTH CAROLINA" is on the left and "DUM SPIRO SPERO" is on the right. Below the central figure, the Latin phrase "IN OMNIBUS REBUS" is visible. The seal is rendered in a light gray, semi-transparent style.

**PROPOSALS FOR DANGEROUS
BAIL BOND VIOLATORS**

ENHANCEMENT FOR CONVICTION FOR CRIME COMMITTED WHILE ON BOND

(A) If a person is convicted of committing or attempting to commit the following offenses while on pretrial release by a personal recognizance or financial surety bond, the person must be imprisoned for five years in addition to the punishment provided for the principal offense.

(1) a violent crime or an attempt to commit a violent crime as defined in section 16-1-60; criminal sexual conduct, third degree; first or second degree domestic violence; strong arm robbery; weapons offenses as outlined in Title 16, Chapter 23; or

(2) any offense involving child pornography; failure to register as a sex offender or child abuser; or

The five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed.

(B) Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law. The court shall impose the mandatory five-year sentence to run consecutively.

(C) A person sentenced pursuant to this section is not eligible during the five-year period imprisonment for parole, work release, or extended work release. The five years must not be suspended, and the person may not complete the term of imprisonment in less than five years pursuant to good-time credits or work credits, but may earn credits during the five-year period.

(D) The additional punishment must not be imposed unless in addition to the indictment for the principal general sessions offense outlined in (A), a separate indictment alleges, pursuant to this section, that the person was on pre-trial release subject to the terms of a bond when the principal general sessions offense was committed and conviction was had upon this additional indictment. The penalties prescribed in this section must not be imposed unless the person convicted was at the same time convicted of the underlying, substantive general sessions offense as described in (A).

PRETRIAL DETENTION FOR REPEAT OFFENDERS

(A) Whenever an individual is on bond or other pre-trial release for a crime listed under subsection (A)(1) or was convicted as outlined in (A)(2) and is charged with committing any other general sessions offense; or if an individual is on bond or pre-trial release for any general sessions offense and is charged with committing another offense listed in section (A)(1), the summary court judge shall not set bond.

(1) any violent crime as defined in 16-1-60; criminal sexual conduct, third degree; first or second degree domestic violence; strong arm robbery; weapons offenses as outlined in Title 16, Chapter 23; any offense involving child pornography; failure to register as a sex offender or child abuser; or

(2) the defendant has a prior conviction for one of these offenses and a period of not more than 5 years has elapsed since the date of conviction, or the release of the defendant from imprisonment, whichever is later.

(B) It shall be the responsibility of the summary court judge presiding at the initial bond hearing to ensure that law enforcement provides a current criminal record detailing pending charges before bond is set or the charges are referred to the general sessions court for consideration of detention. The summary court judge shall notify the Solicitor and Clerk of Court as well as any attorney appointed or retained by the defendant. The Chief Administrative Judge or his designee shall conduct an evidentiary hearing to address the matter of bond within 30 days.

(1) If a preliminary hearing in the matter has not been held, the detention hearing also will serve as the defendant's preliminary hearing and will alleviate the need for an additional hearing pursuant to Rule 2, SCRCrimP.

(2) The rules concerning admissibility of evidence in criminal trials will not apply to the presentation and consideration of information at the detention hearing.

(C) Subject to rebuttal by the defendant, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other defendant and the community if the judge finds there is probable cause to believe that the defendant committed the instant crime. The presumption in favor of detention or revocation and against setting bond will not be rebutted unless the judge makes a finding that the defendant has shown by clear and convincing evidence that release on bail will not expose the public to danger and the defendant is not a flight risk.

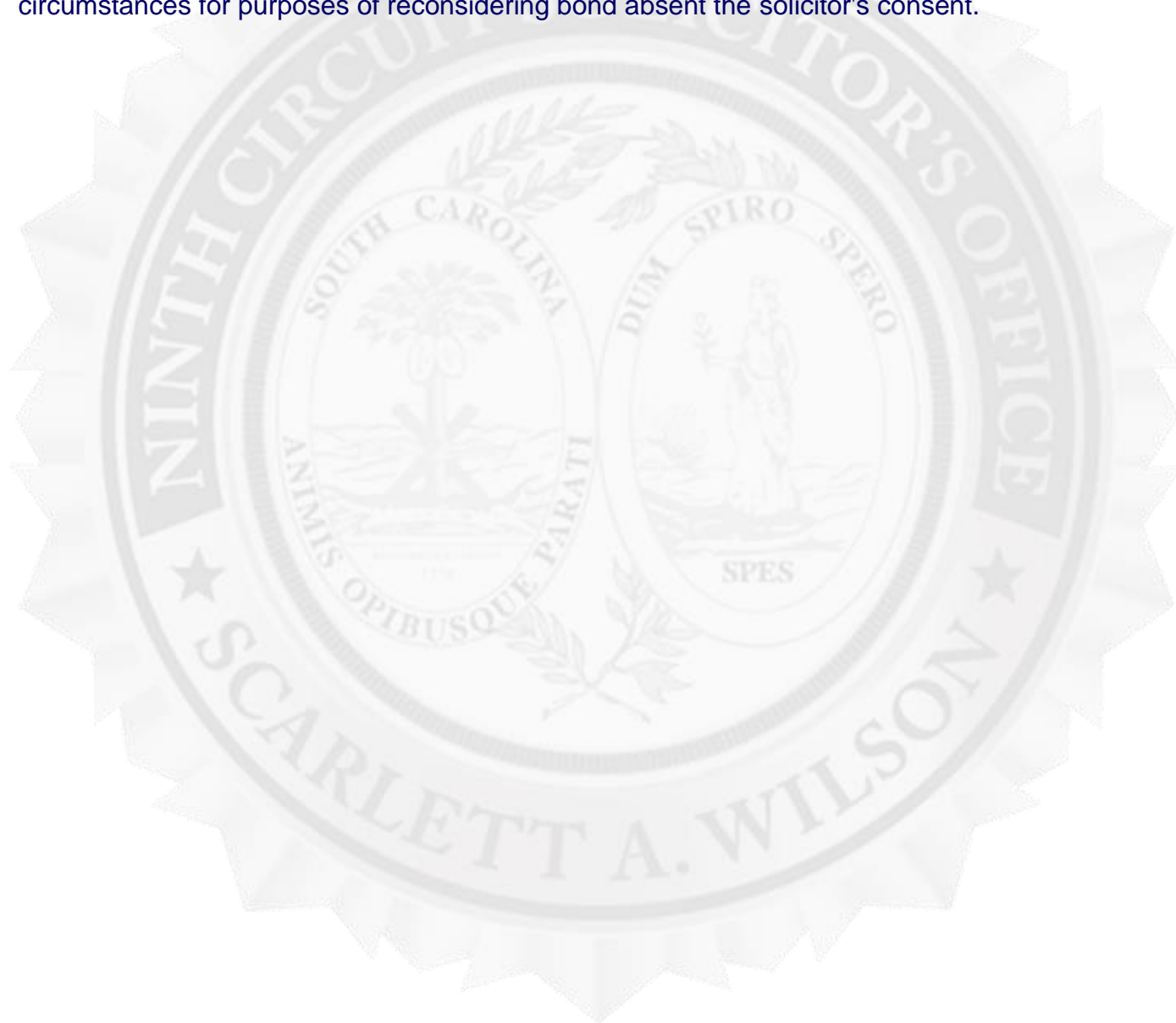
(1) In determining whether there are conditions of release that will reasonably assure the appearance of the defendant as required and the safety of any other defendant in the community, the Court shall take into account the available information concerning:

(a) the factors set forth in 17-15-30; and

(b) the weight of the evidence against the defendant.

(2) The defendant shall be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise.

(D) Defense motions for reconsideration of orders issued pursuant to this statute may be heard only upon a prima facie showing of a material change in circumstances which relate to the factors provided in Section 17-15-30, and which have arisen since the detention hearing. The length of time the defendant has been detained pretrial will not qualify as a material change in circumstance qualifying for a reconsideration of bond or detention ordered pursuant to this statute unless the defendant has been detained for more than 18 months and the defendant is seeking a Speedy Trial. Information regarding the defendant's guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor's consent.



The background of the page features a large, faint, circular seal of the South Carolina Solicitor General's Office. The seal has a serrated outer edge and contains the text "NINTH CIRCUIT SOLICITOR'S OFFICE" at the top and "SCARLETT A. WILSON" at the bottom. In the center, there are two smaller circular emblems. The left emblem shows a palmetto tree with the text "SOUTH CAROLINA" above it. The right emblem shows a figure holding a scale, with the text "DUM SPIRO SPERO" above it.

PROPOSALS FOR REPEAT FIREARMS ABUSERS

(Underlined language is the New Language Proposed for Existing Statutes)

ENHANCEMENTS FOR SUBSEQUENT HANDGUN AND FIREARMS ABUSE

§ 16-23-10. Definitions.

When used in this article:

- (1) "Handgun" means any firearm designed to expel a projectile and designed to be fired from the hand, but shall not include any firearm generally recognized or classified as an antique, curiosity, or collector's item, or any that does not fire fixed cartridges.
- (2) "Dealer" means any person engaged in the business of selling firearms at retail or any person who is a pawnbroker.
- (3) "Crime of violence" means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, housebreaking, assault with intent to kill, commit rape, or rob, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.
- (4) "Fugitive from justice" means any person who has fled from or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.
- (5) "Subversive organization" means any group, committee, club, league, society, association, or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure, or overthrow of the government of the United States or any state or political subdivision thereof, by the use of force, violence, espionage, sabotage, or threats or attempts of any of the foregoing.
- (6) "Conviction" as used herein shall include pleas of guilty, pleas of nolo contendere, and forfeiture of bail.
- (7) "Division" means the State Law Enforcement Division.
- (8) "Purchase" or "sell" means to knowingly buy, offer to buy, receive, lease, rent, barter, exchange, pawn or accept in pawn.
- (9) "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (10) "Luggage compartment" means the trunk of a motor vehicle which has a trunk; however, with respect to a motor vehicle which does not have a trunk, the term "luggage compartment" refers to the area of the motor vehicle in which the manufacturer designed that luggage be carried or to the area of the motor vehicle in which luggage is customarily carried. In a station wagon, van, hatchback vehicle, truck, or sport utility vehicle, the term "luggage compartment" refers to the area behind the rearmost seat.
- (11) "A second" or "third or subsequent" offense means a conviction following a prior conviction on any charge in Title 16, Chapter 23.**

SECTION 16-23-50. Penalties; disposition of fines; forfeiture and disposition of handguns.

(A)(1) A person, including a dealer, who violates the provisions of this article, except Section 16-23-20, is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(a) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not less than one year nor more than five years, or both, no part of which may be suspended or probation granted.

(b) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

(2) A person violating the provisions of Section 16-23-20 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(a) For a second offense, the offender is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both, no part of which may be suspended or probation granted.

(b) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not less than one year nor more than three years, or both, no part of which may be suspended or probation granted.

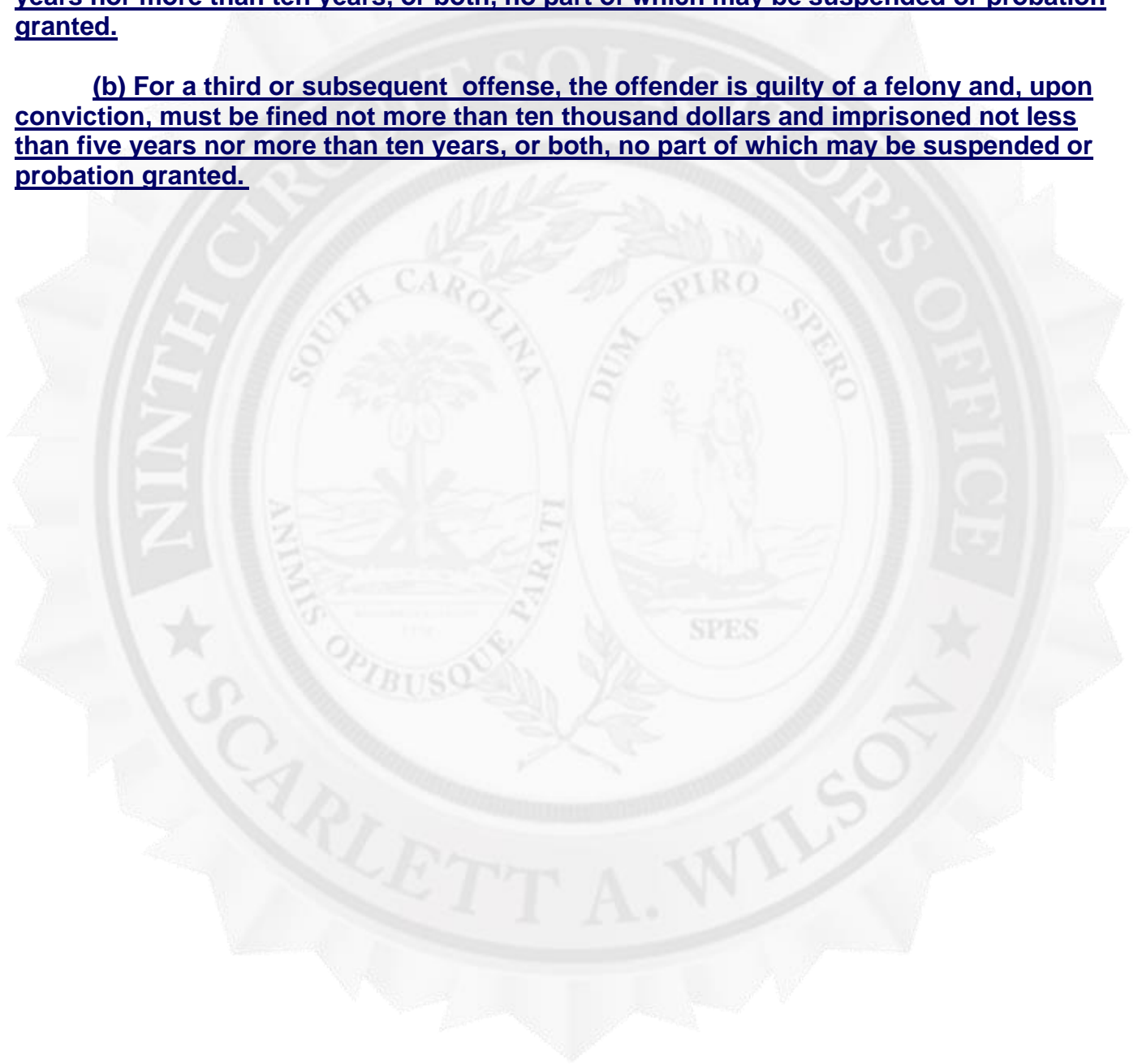
(B) In addition to the penalty provided in this section, the handgun involved in the violation of this article must be confiscated. The handgun must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated handgun may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell handguns in this State for a handgun or any other equipment approved by the agency, or destroy it. A weapon must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the handgun, the division may keep the handgun for use by its forensic laboratory. Records must be kept of all confiscated handguns received by the law enforcement agencies under the provisions of this article.

SECTION 16-23-260. Penalties (Machine Guns, Sawed-off Shotguns and Rifles).

A person violating the provisions of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(a) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned for not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

(b) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than five years nor more than ten years, or both, no part of which may be suspended or probation granted.



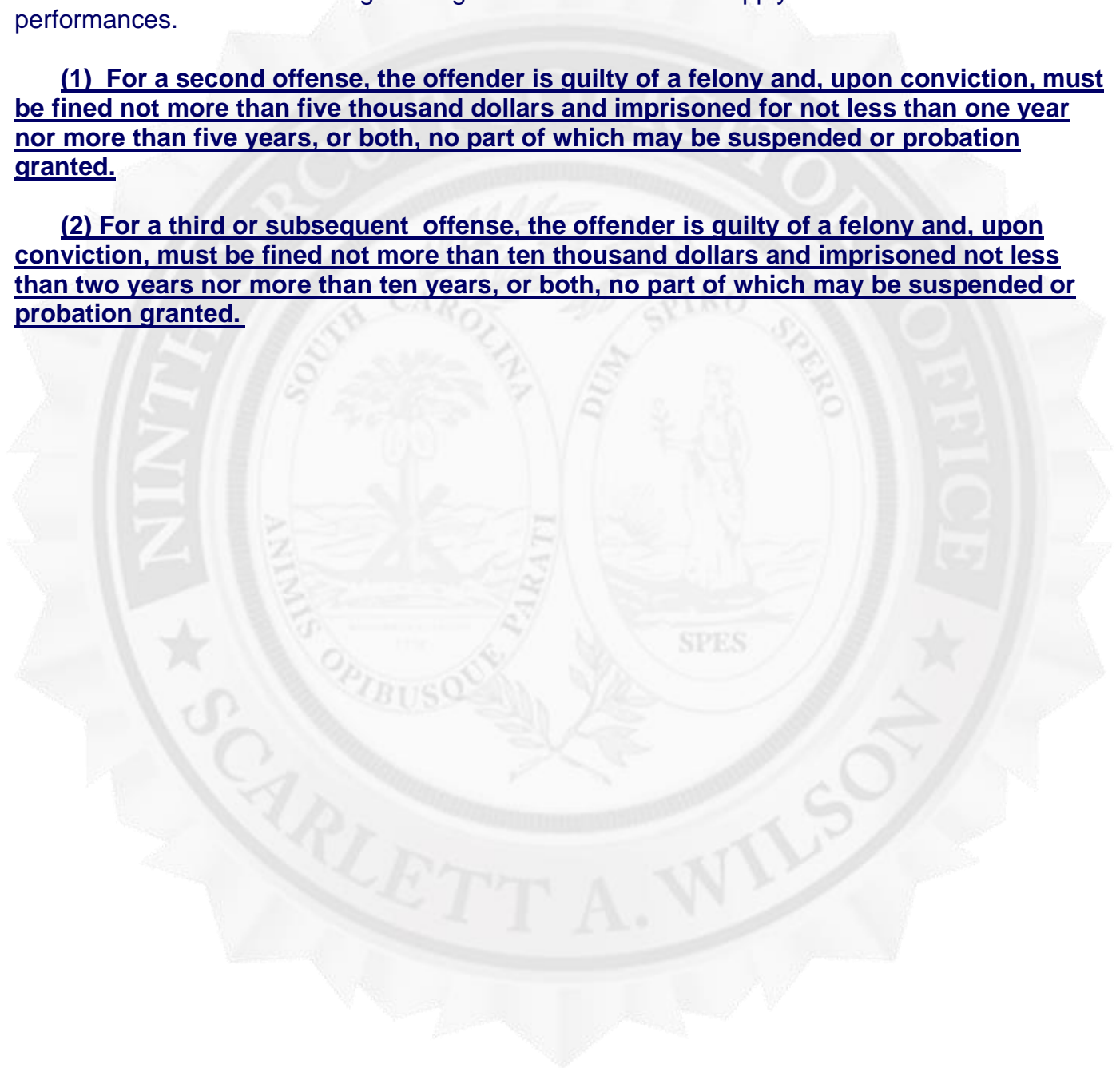
SECTION 16-23-410. Pointing firearm at another person.

It is unlawful for a person to present or point at another person a loaded or unloaded firearm.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years. This section must not be construed to abridge the right of self-defense or to apply to theatricals or like performances.

(1) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not less than one year nor more than five years, or both, no part of which may be suspended or probation granted.

(2) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.



SECTION 16-23-420. Possession of firearm on school property; concealed weapons.

(A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, do not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(1) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not less than one year nor more than five years, or both, no part of which may be suspended or probation granted.

(2) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a weapon in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

(E) For purposes of this section, the terms "premises" and "property" do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full time to public vehicular traffic.

(F) This section does not apply to a person who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31 of Title 23 when upon any premises, property, or building that is part of an interstate highway rest area facility.

SECTION 16-23-430. Carrying weapon on school property; concealed weapons.

(A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms, or any other type of weapon, device, or object which may be used to inflict bodily injury or death.

(B) This section does not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.

(1) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not less than one year nor more than five years, or both, no part of which may be suspended or probation granted.

(2) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

SECTION 16-23-440. Discharging firearms at or into dwellings, structures, enclosures, vehicles or equipment; penalties.

(A) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into a dwelling house, other building, structure, or enclosure regularly occupied by persons. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.

(1) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned for not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

(2) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than five years nor more than ten years, or both, no part of which may be suspended or probation granted.

(B) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into any vehicle, aircraft, watercraft, or other conveyance, device, or equipment while it is occupied. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.

(1) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned for not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

(2) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than five years nor more than ten years, or both, no part of which may be suspended or probation granted.

SECTION 16-23-500. Unlawful possession of a firearm by a person convicted of violent **crime**; confiscation; return of firearm to innocent owner.

(A) It is unlawful for a person who has been convicted of a violent crime, as defined by Section 16-1-60, that is classified as a felony offense, to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(1) For a second offense, the offender is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not less than one year nor more than five years, or both, no part of which may be suspended or probation granted.

(2) For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars and imprisoned not less than two years nor more than ten years, or both, no part of which may be suspended or probation granted.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The judge that hears the case involving the violent offense, as defined by Section 16-1-60, that is classified as a felony offense, shall make a specific finding on the record that the offense is a violent offense, as defined by Section 16-1-60, and is classified as a felony offense. A judge's failure to make a specific finding on the record does not bar or otherwise affect prosecution pursuant to this subsection and does not constitute a defense to prosecution pursuant to this subsection.

