



HENRY McMASTER
GOVERNOR

June 20, 2023

The Honorable G. Murrell Smith, Jr.
Speaker of the House of Representatives
State House, Second Floor
Columbia, South Carolina 29201

Dear Speaker Smith:

I have signed into law R-98, H. 3532, which, *inter alia*, amends numerous aspects of existing law pertaining to bond, pretrial release, electronic monitoring, and other related criminal proceedings and procedures. In addition to these initiatives, H. 3532 also establishes a new felony criminal offense, punishable by up to five years in prison, for instances in which an individual who is subject to a bond or pretrial release order for a previous violent crime commits another violent crime while awaiting trial. Although I am deeply disappointed that the conference committee's compromise proposal watered-down several important measures contained in the version of this legislation previously passed by the House of Representatives, H. 3532 still represents a much-needed and long-overdue step in the right direction. I write today to underscore that this legislation must not be the final step and to again convey the urgent need for the General Assembly to close the "revolving door" for repeat offenders and career criminals.

In furtherance of the reform measures contained in H. 3532, by copy of this letter, I am instructing the South Carolina Law Enforcement Division ("SLED") to utilize the new regulatory authority provided by this bill to develop comprehensive standards for electronic-monitoring companies and bail bondsmen and to enforce strict compliance with the same. I am similarly directing the Department of Insurance ("Department") to use its enhanced (but still relatively limited) licensing power to hold bail bondsmen accountable and to ensure timely reporting of electronic-monitoring violations. I also continue to encourage Solicitors to avail themselves of the process I announced last year, established by the Department's Administrative Order No. 2022-04, which enables prosecutors to submit bondsmen-related complaints to the Department for administrative review and potential regulatory or disciplinary action or criminal referral. Not only must the State prosecute those responsible for endangering the community, but we must also advocate for courts to either detain our State's violent (and often repeat) offenders pending trial or at least impose stringent bond conditions to ensure that they will not endanger other members of

the community or continue to threaten public safety. However, bond and pretrial release conditions are premised on compliance, so the State must promptly hold accountable any and all individuals who violate or fail to monitor these restrictions, including not only criminal defendants but also unscrupulous bondsmen and electronic-monitoring companies that refuse or neglect to supervise their customers as required. I am confident that SLED's and the Department's new authority will help detect and deter misconduct and promote public safety.

Notwithstanding the foregoing, my approval of H. 3532 does not absolve the General Assembly of its inherent police power to provide for and protect public safety or relieve legislators of their corresponding responsibility to pass additional legislation to support law enforcement's top priority: enhancing existing penalties for illegal gun possession and closing the "revolving door" for repeat offenders and career criminals. As a former state and federal prosecutor, I understand that South Carolina must continue to take a comprehensive approach to protecting public safety. It is axiomatic that the State must vigorously investigate crimes and prosecute those who violate existing law. But we must also advocate for tougher criminal laws and penalties and advance strategies designed to enhance deterrence, enforcement, accountability, rehabilitation, and reentry and to reduce recidivism. According to information compiled by SLED, despite prior favorable trends and certain encouraging indicators, South Carolina, like many other States, is experiencing an alarming increase in violent crime and weapons offenses. SLED's latest reported data indicates that the rate of violent crime has increased 9.5% since 2015 and statistics for 2020 indicate a 6% increase compared to 2019. The rate of weapons-related offenses has also increased over a similar period. As Chief Mark Keel observed in issuing SLED's most recent report, the confluence of gangs and drugs and criminals' "easy access to guns" "continue[s] to play a significant role in the violence we are seeing." Unfortunately, events across South Carolina continue to highlight the need for action.

Generally speaking, it is no mystery who is responsible. Consistent with the fact that the South Carolina Department of Corrections has maintained the lowest recidivism rate in the country, experience has revealed that a mere 5% to 7% of offenders account for approximately 80% to 90% of violent crime. And many of these individuals would have been—and logically should have been—prohibited from possessing a firearm under South Carolina law (and thereby subject to further criminal penalties), but for the fact that they often simply accumulate lengthy criminal records with the same static misdemeanor charge for unlawful carrying of a handgun. *See* S.C. Code Ann. §§ 16-23-20, -50.

It does not have to be this way. Compared to the status quo, which does not deter repeated criminal conduct, adopting graduated and enhanced felony penalties, with no bond, will help put and keep repeat criminals behind bars where they belong, instead of out on bond where they can continue to threaten public safety. Because we must not accept these often-avoidable cases of violent crime or allow them to become a sustained trend, I have repeatedly urged the General Assembly to pass legislation enhancing and graduating the penalties for illegal gun possession. Unfortunately, the General Assembly did not adopt this proposal in the waning days of the regular or extra legislative sessions. As the State's chief executive, I am prepared to "take care that the laws be faithfully executed," S.C. Const. art. IV, § 15, but the General Assembly must pass

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legislation to enable law enforcement to ensure the safety, security, and stability of many of our State's communities.

For the foregoing reasons, I have signed H. 3532 into law. I look forward to continuing to work with the General Assembly to keep illegal guns out of the hands of criminals and juveniles and to close the "revolving door" for repeat violent offenders and career criminals.

Yours very truly,



Henry McMaster

HM/tl

cc: Chief Mark Keel
South Carolina Law Enforcement Division

Director Michael Wise
South Carolina Department of Insurance