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GOVERNOR

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The Honorable Walker Green
Lieutenant Governor
State House, Second Floor
Columbia, South Carolina 29201

I am returning Bill No.124 which seeks to reduce crime in South Carolina through reducing sentences for and increasing enforcement of crime, without approval due to serious concerns surrounding its incentivization of traffic citations, the potential for constitutional challenges, and proposed changes to parole eligibility for certain offenses. While the bill's goal of reducing crime in South Carolina is well-intended, it falls short in both ethical considerations and practical applications, ultimately undermining public trust in law enforcement and risking public safety.

Incentivizing Traffic Citations for Compensation

Section I(D) proposes basing a portion of officers' compensation on the number of traffic citations issued and the percentage of convictions. This measure risks creating perverse incentives for officers, who may prioritize ticket issuance over genuine public safety concerns. Research and experience have shown that incentivizing citations can lead to over-policing, especially in communities with limited resources. Over-policing of minor infractions has been shown to generate significant distrust between law enforcement and the public and risks appearing as revenue-generating rather than safety-focused policing.

Moreover, similar policies have been met with public backlash nationwide. South Carolina should not adopt an approach that may appear as if officers are being encouraged to "ticket for profit." Such policies risk eroding the integrity of law enforcement, where the focus must remain on fair and unbiased law enforcement, particularly as the state seeks to strengthen, not weaken, community relations.

Constitutional and Legal Challenges

Section I(D) is also likely to face legal challenges. The use of ticket quotas or performance-based incentives has been struck down by various courts across the country as potentially

unconstitutional, often on the grounds that they bias law enforcement practices. Courts have historically ruled that such quotas are inherently problematic because they may cause officers to issue citations to meet financial or performance benchmarks rather than for actual violations, creating a de facto quota system. The constitutionality of basing compensation on ticket issuance is questionable at best and could result in costly litigation against the state.

Listed below are past cases that have been brought up related to this section.

1. *Ferguson v. City of Ferguson (2015)*: This case arose from the aftermath of the Michael Brown shooting and highlighted systemic issues in policing, including revenue generation through traffic fines. The U.S. Department of Justice found that the city relied heavily on fines and fees, which incentivized officers to issue more citations, leading to discriminatory practices. This case underscores the potential ethical and legal implications of performance-based compensation linked to citations¹.
2. *United States v. City of Los Angeles (2000)*: This case involved a consent decree addressing the LAPD's practices, including the pressure on officers to meet citation quotas. The settlement aimed to reform policing practices and reduce reliance on citations as a performance metric, emphasizing the need for accountability and community trust².
3. *State v. McCoy (2018)*: In this case, the court examined the legality of traffic stops and the motivations behind them. While not directly about compensation, it raised questions about how performance metrics could influence officers' decisions to stop drivers, potentially leading to unconstitutional practices³.

Parole Adjustments and Concerns about Crime Reduction

This bill further raises concerns by expanding parole eligibility for certain offenses, including serious drug-related offenses. Drug-related deaths in the United States continue to be an urgent public health crisis. In 2023 alone, more than 110,000 people died from drug overdoses nationwide, with fentanyl and other opioids being particularly deadly⁴. For this reason, early parole for those convicted of serious drug trafficking or distribution offenses presents a public safety risk that cannot be ignored. The reintroduction of offenders linked to drug crimes back into communities too early undermines efforts to combat the drug crisis and protect vulnerable populations from this ongoing epidemic.

The bill's author has argued that this risk is mitigated by the inclusion of a provision to charge drug dealers with murder if they distribute drugs that lead to a fatal overdose. However, courts have consistently struggled with, and often dismissed, such murder charges against drug dealers. For example, in *Burrage v. United States (2016)* the defendant's murder conviction for a drug-related death was overturned because establishing causation between drug distribution and the

¹ Case: *United States v. city of ferguson*. United States v. City of Ferguson 4:16-cv-00180 (E.D. Mo.) | Civil Rights Litigation Clearinghouse. (2016). <https://clearinghouse.net/case/14081/>

² Case: *U.S. v. City of Los Angeles*. U.S. v. City of Los Angeles 2:00-cv-11769 (C.D. Cal.) | Civil Rights Litigation Clearinghouse. (2000). <https://clearinghouse.net/case/1018/>

³ State v. McCoy, 2 Ca-CR 2021-0067 | casetext search + citator. (2018). <https://casetext.com/case/state-v-mccoy-62072/>

⁴ U.S. Department of Health and Human Services. (2024, September 30). *Drug overdose deaths: Facts and figures*. National Institutes of Health. <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>

user's death can be difficult to prove beyond a reasonable doubt⁵. Consequently, it is unlikely that such a provision would be consistently enforceable or sufficient to address the risks posed by releasing serious drug offenders on parole.

Furthermore, studies have shown that longer incarceration can deter certain types of criminal activity. A 2019 report by the National Bureau of Economic Research found that longer prison sentences can indeed deter future crimes, particularly when applied to individuals involved in repeat or violent offenses⁶. Expanding parole too broadly may weaken the deterrent effect of our criminal justice system, especially in cases where the potential harm to society is significant. This bill's provisions on parole risk a premature release for certain offenders who have not met sufficient criteria to justify early release, potentially compromising public safety.

Conclusion

While I acknowledge the intent of this bill to alleviate overcrowded prisons and enhance law enforcement capacity, its approach contains serious flaws that ultimately threaten the safety and trust of our communities. Incentivizing citations for compensation, risking constitutional challenges, and expanding parole eligibility for offenses that directly impact public health are approaches that South Carolina cannot afford to adopt. I urge the General Assembly to consider alternative reforms that maintain public trust, ensure fair and effective law enforcement, and prioritize the safety of our citizens.

For these reasons, I cannot, in good conscience, support Bill No.124 as it currently stands. I encourage the Assembly to work towards reforms that balance public safety with ethical law enforcement practices and look forward to collaborating on measures that will better serve South Carolina's communities.

Respectfully,

Abigail Bergmann

Governor of South Carolina Student Legislature

⁵ Weinstein, A. D. (2019). *When cause-in-fact is, in fact, not the solution*. Columbia Human Rights Law Review . <https://hrlr.law.columbia.edu/files/2019/11/Alyssa-D.-Weinstein-When-Cause-in-Fact-is-in-Fact-Not-the-Solution.pdf>

⁶ Turner , N. (2023, February 13). *Research shows that long prison sentences don't actually improve...* Vera Institute of Justice. <https://www.vera.org/news/research-shows-that-long-prison-sentences-dont-actually-improve-safety>

