

GA-01.08, "Military Selective Service Act and Gun Control Act of 1968"

SCDC POLICY

NUMBER:GA-01.08

TITLE:MILITARY SELECTIVE SERVICE ACT AND GUN CONTROL ACT OF 1968

ISSUE DATE: September 12, 2022

RESPONSIBLE AUTHORITY: OFFICE OF GENERAL COUNSEL

POLICYMANUAL:GENERAL ADMINISTRATION

SUPERSEDES:GA-01.08 (January 1, 2003) (August 1, 2001)

RELEVANT SCDC FORMS/SUPPLIES: 9-3, 9-4

ACA/CAC STANDARDS: 4-ACRS-6A-13,3-4393

STATE/FEDERAL STATUTES:Military Selective Service Act, 50 App. U.S.C.A.3801 et seq.; Gun Control Act of 1968, 18 U.S.C.A, 921, et seq.

PURPOSE: To comply with relevant portions of the Military Selective Service Act regarding Selective Service System requirements, and relevant portions of the Gun Control Act of 1968 concerning restrictions on inmates who are to be released from the custody of the South Carolina Department of Corrections.

POLICY STATEMENT: The Agency is committed to assisting all inmates released from the SCDC in successfully re-entering the community and remaining productive, law-abiding citizens. To this end, the Agency will ensure that all affected inmates are given a copy of the appropriate portions of the Gun Control Act of 1968 and the Military Selective Service Act and that they are informed how these Acts apply to them. (4-ACRS-6A-13, 3-4393)

SPECIFIC PROCEDURES:

1. GUN CONTROL ACT OF 1968: The Gun Control Act of 1968 applies to an inmate who:

- has been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
- is an unlawful user of, or addicted to, any controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802));
- has been adjudicated as a mental defective or who has been committed to any mental institution;
- is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would

place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that - -

- was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and
- includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
- by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; and/or
- has been convicted in any court of a misdemeanor crime of domestic violence.

2. MILITARY SELECTIVE SERVICE REQUIREMENTS: The Military Selective Service Act applies to an inmate who:

- is male;
- is a citizen of the United States or resides in the United States;
- is between the ages of eighteen (18) and twenty-six (26).

NOTE: This provision is not applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 1101(a)(15) of Title 8, for so long as he continues to maintain a lawful nonimmigrant status in the United States.

3. DOCUMENTATION REQUIREMENTS:

3.1 During release processing, each affected inmate will receive information explaining the applicable portions of the Gun Control Act of 1968 and/or a copy of the applicable portions of the Military Selective Service Act (to include the procedure for registering with the Selective Service System).

3.2 Each affected inmate will be required to sign:

3.2.1 SCDC Form 9-3, "Gun Control Act of 1968," to indicate that he has been read and been given a copy of the applicable portions of the Gun Control Act of 1968, and that he understands how this Act applies to him/her; and/or

3.2.2 SCDC Form 9-4, "Military Selective Service Act," to indicate that he has been read and been given a copy of the applicable portions of the Military Selective Service Act, and that he understands how this Act applies to him.

3.3 The Warden will be responsible for designating one (1) or more employees to ensure that the necessary form(s) is/are signed by the inmate, and that the inmate's signature is witnessed by an Agency employee. A copy of the signed SCDC Form 9-3 and/or SCDC Form 9-4 will be filed and retained in the inmate's institutional record at the time of release and prior to forwarding record(s) to Inmate Records to become a part of his/her permanent inactive record. (4-ACRS-6A-13, 3-4393)

4. DEFINITIONS: NONE

SIGNATURE ON FILE

—
s/Bryan P. Stirling, Director

—
Date of Signature

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT