**A** **BILL**

TO AMEND SECTION 20‑4‑60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FAMILY COURT ORDERS OF PROTECTION FROM DOMESTIC ABUSE, CONTENTS OF THE ORDER, AND CIRCUMSTANCES UNDER WHICH MUTUAL ORDERS OF PROTECTION MAY BE GRANTED, SO AS TO FURTHER SPECIFY CIRCUMSTANCES UNDER WHICH MUTUAL ORDERS MAY BE GRANTED AND TO AUTHORIZE THAT AN ORDER NOT IN COMPLIANCE WITH THIS SECTION MAY BE VACATED AND THE RECORDS RELATING TO THE ORDER DESTROYED; AND TO AMEND SECTION 16‑3‑1760, AS AMENDED, RELATING TO THE ISSUANCE OF TEMPORARY RESTRAINING ORDERS BY THE MAGISTRATES COURT FOR HARASSMENT OR STALKING, SO AS TO PROVIDE THAT ON THE MOTION OF A PARTY TO A TEMPORARY RESTRAINING ORDER THE COURT MAY VACATE THE ORDER AND REQUIRE ALL RECORDS OF THE ORDER DESTROYED IF THE ORDER WAS IMPROPERLY ISSUED DUE TO UNKNOWN FACTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 20‑4‑60(E) of the 1976 Code, as added by Act 396 of 1996, is amended to read:

“(E) ~~No mutual order of protection may be granted unless the court sets forth findings of fact necessitating the mutual order or unless both parties consent to a mutual order~~ Mutual orders of protection must not be granted unless both parties file a petition and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self‑defense, and that the right of each party to due process is preserved.”

SECTION 2. Section 20‑4‑60 of the 1976 Code, as last amended by Act 319 of 2008, is further amended by adding at the end:

“(F) If mutual orders of protection have been entered that do not comply with the provisions of this section a petitioner may request the order be vacated and all records of the order be destroyed.”

SECTION 3. Section 16‑3‑1760 of the 1976 Code, as last amended by Act 106 of 2005, is further amended by adding at the end:

“(E) Upon motion of a party, the court may determine that a temporary restraining order was improperly issued due to unknown facts. The court may order the temporary restraining order vacated and all records of the improperly issued restraining order destroyed.”

SECTION 4. This act takes effect upon approval by the Governor.

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