**South Carolina General Assembly**

121st Session, 2015-2016

**A58, R80, S3**

**STATUS INFORMATION**

General Bill

Sponsors: Senators L. Martin, Shealy, Malloy, Courson, Fair, Turner, Lourie and Hembree

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Companion/Similar bill(s): 3433

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Introduced in the House on March 4, 2015

Last Amended on May 26, 2015

Passed by the General Assembly on May 28, 2015

Governor's Action: June 4, 2015, Signed

Summary: Criminal Domestic Violence Offenses and Penalties

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/3/2014 Senate Prefiled

12/3/2014 Senate Referred to Committee on **Judiciary**

1/13/2015 Senate Introduced and read first time ([Senate Journal‑page 33](file:///h:\SJ%20Archive\2015\01-13-15.docx))

1/13/2015 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 33](file:///h:\SJ%20Archive\2015\01-13-15.docx))

1/15/2015 Senate Referred to Subcommittee: Hembree (ch), Allen, McElveen, Shealy, Turner

1/22/2015 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 4](file:///h:\SJ%20Archive\2015\01-22-15.docx))

1/23/2015 Scrivener's error corrected

2/17/2015 Senate Debate interrupted ([Senate Journal‑page 13](file:///h:\SJ%20Archive\2015\02-17-15.docx))

2/18/2015 Senate Committee Amendment Amended and Adopted ([Senate Journal‑page 21](file:///h:\SJ%20Archive\2015\02-18-15.docx))

2/18/2015 Senate Debate interrupted ([Senate Journal‑page 21](file:///h:\SJ%20Archive\2015\02-18-15.docx))

2/19/2015 Senate Debate interrupted ([Senate Journal‑page 20](file:///h:\SJ%20Archive\2015\02-19-15.docx))

2/19/2015 Scrivener's error corrected

2/24/2015 Senate Amended ([Senate Journal‑page 21](file:///h:\SJ%20Archive\2015\02-24-15.docx))

2/24/2015 Senate Debate interrupted ([Senate Journal‑page 21](file:///h:\SJ%20Archive\2015\02-24-15.docx))

2/25/2015 Scrivener's error corrected

2/25/2015 Senate Amended ([Senate Journal‑page 35](file:///h:\SJ%20Archive\2015\02-25-15.docx))

2/25/2015 Senate Read second time ([Senate Journal‑page 35](file:///h:\SJ%20Archive\2015\02-25-15.docx))

2/25/2015 Senate Roll call Ayes‑38 Nays‑3 ([Senate Journal‑page 35](file:///h:\SJ%20Archive\2015\02-25-15.docx))

3/3/2015 Senate Read third time and sent to House ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2015\03-03-15.docx))

3/4/2015 House Introduced and read first time ([House Journal‑page 6](file:///h:\HJ%20Archive\2015\03-04-15.docx))

3/4/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 6](file:///h:\HJ%20Archive\2015\03-04-15.docx))

5/14/2015 House Recalled from Committee on **Judiciary** ([House Journal‑page 43](file:///h:\HJ%20Archive\2015\05-14-15.docx))

5/15/2015 Scrivener's error corrected

5/20/2015 House Amended ([House Journal‑page 49](file:///h:\HJ%20Archive\2015\05-20-15.docx))

5/20/2015 House Read second time ([House Journal‑page 49](file:///h:\HJ%20Archive\2015\05-20-15.docx))

5/20/2015 House Roll call Yeas‑104 Nays‑0 ([House Journal‑page 93](file:///h:\HJ%20Archive\2015\05-20-15.docx))

5/21/2015 House Read third time and returned to Senate with amendments ([House Journal‑page 11](file:///h:\HJ%20Archive\2015\05-21-15.docx))

5/26/2015 Senate House amendment amended ([Senate Journal‑page 26](file:///h:\SJ%20Archive\2015\05-26-15.docx))

5/26/2015 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 26](file:///h:\SJ%20Archive\2015\05-26-15.docx))

5/26/2015 Senate Returned to House with amendments ([Senate Journal‑page 26](file:///h:\SJ%20Archive\2015\05-26-15.docx))

5/28/2015 House Concurred in Senate amendment and enrolled ([House Journal‑page 100](file:///h:\HJ%20Archive\2015\05-28-15.docx))

5/28/2015 House Roll call Yeas‑81 Nays‑23 ([House Journal‑page 102](file:///h:\HJ%20Archive\2015\05-28-15.docx))

6/2/2015 Ratified R 80

6/4/2015 Signed By Governor

6/11/2015 Effective date 06/04/15

6/12/2015 Act No. 58

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**VERSIONS OF THIS BILL**

[12/3/2014](file:///p:\pprever\2015-16\3_20141203.docx)

[1/22/2015](file:///p:\pprever\2015-16\3_20150122.docx)

[1/23/2015](file:///p:\pprever\2015-16\3_20150123.docx)

[2/18/2015](file:///p:\pprever\2015-16\3_20150218.docx)

[2/19/2015](file:///p:\pprever\2015-16\3_20150219.docx)

[2/24/2015](file:///p:\pprever\2015-16\3_20150224.docx)

[2/25/2015](file:///p:\pprever\2015-16\3_20150225.docx)

[2/25/2015-A](file:///p:\pprever\2015-16\3_20150225A.docx)

[5/14/2015](file:///p:\pprever\2015-16\3_20150514.docx)

[5/15/2015](file:///p:\pprever\2015-16\3_20150515.docx)

[5/20/2015](file:///p:\pprever\2015-16\3_20150520.docx)

[5/26/2015](file:///p:\pprever\2015-16\3_20150526.docx)

(A58, R80, S3)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “DOMESTIC VIOLENCE REFORM ACT”; TO AMEND SECTION 16‑25‑10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF DOMESTIC VIOLENCE OFFENSES, SO AS TO DEFINE OTHER NECESSARY TERMS; TO AMEND SECTION 16‑3‑600, AS AMENDED, RELATING TO ASSAULT AND BATTERY OFFENSES, SO AS TO REVISE THE DEFINITION OF “MODERATE BODILY INJURY” TO CONFORM; TO AMEND SECTION 16‑25‑20, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OFFENSES, SO AS TO RESTRUCTURE THE OFFENSES BY GRADUATING THE PENALTIES INTO DEGREES, DEFINE THE ELEMENTS OF EACH DEGREE, AND PROVIDE A NEW PENALTY STRUCTURE, AMONG OTHER THINGS; TO AMEND SECTION 16‑25‑65, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO RESTRUCTURE THE OFFENSE, REDEFINE THE ELEMENTS OF THE OFFENSE, AND TO RESTRUCTURE THE PENALTY; TO AMEND SECTION 16‑1‑60, AS AMENDED, RELATING TO CRIMES DEFINED AS VIOLENT, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE FIRST DEGREE AS A VIOLENT CRIME; TO AMEND SECTION 17‑25‑45, AS AMENDED, RELATING TO OFFENSES DEFINED AS “MOST SERIOUS” AND “SERIOUS”, SO AS TO ADD THE OFFENSES OF DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE AND DOMESTIC VIOLENCE IN THE FIRST DEGREE TO THE LIST OF “SERIOUS” OFFENSES; TO AMEND SECTION 56‑7‑10, AS AMENDED, RELATING TO UNIFORM TRAFFIC TICKETS, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE SECOND AND THIRD DEGREE OFFENSES TO THE LIST OF ADDITIONAL OFFENSES FOR WHICH A UNIFORM TRAFFIC TICKET MAY BE ISSUED; TO AMEND SECTION 16‑25‑30, RELATING TO POSSESSION OF A FIREARM BY A PERSON CONVICTED OF CERTAIN DOMESTIC VIOLENCE OFFENSES, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR PERSONS CONVICTED OF CERTAIN DOMESTIC VIOLENCE OFFENSES TO SHIP, TRANSPORT, RECEIVE, OR POSSESS A FIREARM OR AMMUNITION UNDER CERTAIN CIRCUMSTANCES AND PROVIDE A TIME FRAME FOR THE RESTORING OF RIGHTS REGARDING SHIPPING, TRANSPORTING, RECEIVING, OR POSSESSING A FIREARM OR AMMUNITION; TO AMEND SECTION 17‑15‑30 AND SECTION 22‑5‑510, BOTH AS AMENDED, RELATING TO MATTERS TO BE CONSIDERED WHEN DETERMINING CONDITIONS OF RELEASE ON BOND AND BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE COURT, RESPECTIVELY, BOTH SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL, TO PROVIDE THAT WHEN A PERSON IS CHARGED WITH A VIOLATION OF CERTAIN DOMESTIC VIOLENCE OFFENSES THAT A BOND HEARING MAY NOT PROCEED WITHOUT THE PERSON’S CRIMINAL RECORD AND INCIDENT REPORT, OR THE PRESENCE OF THE ARRESTING OFFICER, AND TO REQUIRE BOND HEARINGS FOR THESE VIOLATIONS TO BE HELD WITHIN TWENTY‑FOUR HOURS AFTER ARREST; TO AMEND SECTION 17‑15‑10, RELATING TO PERSONS WHO MAY BE RELEASED PENDING TRIAL, SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL; TO AMEND SECTION 16‑25‑120, AS AMENDED, RELATING TO THE RELEASE OF A PERSON ON BOND WHO IS CHARGED WITH A VIOLENT OFFENSE OR WHEN THE VICTIM IS A HOUSEHOLD MEMBER, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER CERTAIN FACTORS BEFORE RELEASING A PERSON ON BOND; TO AMEND SECTION 17‑15‑50, RELATING TO AMENDMENT OF AN ORDER RELATING TO BOND, SO AS TO CLARIFY THAT THE COURT WITH JURISDICTION OF THE OFFENSE MAY AMEND THE ORDER AT ANY TIME; TO AMEND SECTION 17‑15‑55, AS AMENDED, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO PROVIDE FOR THE PURPOSE OF BOND REVOCATION ONLY THAT A SUMMARY COURT HAS CONCURRENT JURISDICTION WITH THE CIRCUIT COURT FOR TEN DAYS FROM THE DATE BOND IS FIRST SET ON A CHARGE BY THE SUMMARY COURT TO DETERMINE IF BOND SHOULD BE REVOKED; TO AMEND SECTION 16‑25‑70, AS AMENDED, RELATING TO WARRANTLESS ARREST OR SEARCH FOR A DOMESTIC VIOLENCE OFFENSE, SO AS TO REQUIRE THAT THE MANDATED LAW ENFORCEMENT INVESTIGATION OF A DOMESTIC VIOLENCE OFFENSE MUST BE DOCUMENTED ON AN INCIDENT REPORT FORM WHICH MUST BE MAINTAINED BY THE INVESTIGATING AGENCY; TO AMEND SECTION 16‑3‑1110, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE ON COMPENSATION OF VICTIMS OF CRIME, SO AS TO INCLUDE MINOR WITNESSES TO A DOMESTIC VIOLENCE OFFENSE IN THE DEFINITION OF “VICTIM”; TO DIRECT THE DEPARTMENT OF SOCIAL SERVICES IN CONSULTATION WITH THE SOUTH CAROLINA VOUCHER PROGRAM TO PROVIDE CERTAIN CHILDCARE SERVICES TO VICTIMS OF DOMESTIC VIOLENCE TO ENCOURAGE PARTICIPATION IN COURT HEARINGS RELATING TO DOMESTIC VIOLENCE; TO AMEND SECTION 17‑22‑90, RELATING TO PRETRIAL INTERVENTION PROGRAMS AND AGREEMENTS REQUIRED BY OFFENDERS IN A PROGRAM, SO AS TO REQUIRE THE CIRCUIT SOLICITOR, OR ATTORNEY GENERAL, IF APPROPRIATE, TO SELECT AND APPROVE A BATTERER’S TREATMENT PROGRAM FOR USE AS PART OF PRETRIAL INTERVENTION FOR CERTAIN DOMESTIC VIOLENCE OFFENSES; BY ADDING ARTICLE 3 TO CHAPTER 25, TITLE 16 SO AS TO CREATE THE DOMESTIC VIOLENCE ADVISORY COMMITTEE WHOSE PURPOSE IS TO DECREASE THE INCIDENCES OF DOMESTIC VIOLENCE, TO DEFINE NECESSARY TERMS, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE, TO PROVIDE FOR THE DUTIES OF THE COMMITTEE, AND TO EXEMPT CERTAIN MEETINGS AND INFORMATION FROM THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT AND PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO THE INVESTIGATION AND REVIEW OF INCIDENCES OF DOMESTIC VIOLENCE BY THE COMMITTEE; BY ADDING ARTICLE 5 TO CHAPTER 25, TITLE 16 SO AS TO RECODIFY THE PROVISIONS OF SECTION 43‑1‑260, RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS, WITHIN ARTICLE 5; TO AMEND SECTION 59‑32‑30, AS AMENDED, RELATING TO SUBJECTS TAUGHT IN THE COMPREHENSIVE HEALTH EDUCATION PROGRAM, SO AS TO ADD THE SUBJECT OF DOMESTIC VIOLENCE BEGINNING WITH THE 2016‑2017 SCHOOL YEAR; TO REPEAL SECTION 43‑1‑260 RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS; BY ADDING ARTICLE 18 TO CHAPTER 3, TITLE 16 SO AS TO CREATE PROVISIONS REGARDING PERMANENT RESTRAINING ORDERS, TO DEFINE NECESSARY TERMS, TO PROVIDE PROCEDURES FOR OBTAINING PERMANENT RESTRAINING ORDERS AND EMERGENCY RESTRAINING ORDERS; AND TO AMEND SECTION 22‑5‑910, AS AMENDED, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO INCLUDE FIRST OFFENSE CONVICTIONS FOR DOMESTIC VIOLENCE IN THE THIRD DEGREE IN THE PURVIEW OF THE STATUTE AFTER FIVE YEARS FROM THE DATE OF CONVICTION.**

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

Part I

Citation

**Citation**

SECTION 1. This act may be cited as the “Domestic Violence Reform Act”.

Part II

Domestic Violence Penalties

**Domestic violence, definitions added**

SECTION 2. Section 16‑25‑10 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑10. As used in this article, the term:

(1) ‘Deadly weapon’ means any pistol, dirk, slingshot, metal knuckles, razor, or other instrument which can be used to inflict deadly force.

(2) ‘Great bodily injury’ means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(3) ‘Household member’ means:

(a) a spouse;

(b) a former spouse;

(c) persons who have a child in common; or

(d) a male and female who are cohabiting or formerly have cohabited.

(4) ‘Moderate bodily injury’ means physical injury that involves prolonged loss of consciousness or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one‑time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.

(5) ‘Prior conviction of domestic violence’ includes conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to those enumerated in, Section 16‑25‑20(A) that is committed against a household member as defined in item (3) within the ten years prior to the incident date of the current offense*.*

(6) ‘Protection order’ means any order of protection, restraining order, condition of bond, or any other similar order issued in this State or another state or foreign jurisdiction for the purpose of protecting a household member.

(7) ‘Firearm’ means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or an assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive but does not include an antique firearm as defined in 18 U.S.C. 921(a)(16).”

**Assault and battery, definition revised**

SECTION 3. Section 16‑3‑600(A)(2) of the 1976 Code, as added by Act 273 of 2010, is amended to read:

“(2) ‘Moderate bodily injury’ means physical injury that involves prolonged loss of consciousness, or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ, or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one‑time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.”

**Domestic violence, degrees created, penalties**

SECTION 4. Section 16‑25‑20 of the 1976 Code, as last amended by Act 255 of 2008, is further amended to read:

“Section 16‑25‑20. (A) It is unlawful to:

(1) cause physical harm or injury to a person’s own household member; or

(2) offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection (A) and:

(1) great bodily injury to the person’s own household member results or the act is accomplished by means likely to result in great bodily injury to the person’s own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;

(3) has two or more prior convictions of domestic violence within ten years of the current offense;

(4) the person uses a firearm in any manner while violating the provisions of subsection (A); or

(5) in the process of committing domestic violence in the second degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim’s breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

(C) A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) moderate bodily injury to the person’s own household member results or the act is accomplished by means likely to result in moderate bodily injury to the person’s own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree;

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) in the process of committing domestic violence in the third degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by, a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim’s breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser‑included offense of domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

Assault and battery in the second degree pursuant to Section 16‑3‑600(D) is a lesser‑included offense of domestic violence in the second degree as defined in this subsection.

(D) A person commits the offense of domestic violence in the third degree if the person violates subsection (A).

(1) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than ninety days, or both. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense pursuant to the provisions of this subsection may be tried in summary court.

(2) Domestic violence in the third degree is a lesser‑included offense of domestic violence in the second degree, as defined in subsection (C), domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

(3) Assault and battery in the third degree pursuant to Section 16‑3‑600(E) is a lesser‑included offense of domestic violence in the third degree as defined in this subsection.

(4) A person who violates this subsection is eligible for pretrial intervention pursuant to Chapter 22, Title 17.

(E) When a person is convicted of a violation of Section 16‑25‑20(B) or (C) or Section 16‑25‑65, the circuit court may suspend execution of all or part of the sentence and place the offender on probation, or if a person is convicted of a violation of Section 16‑25‑20(D), the court may suspend execution of all or part of the sentence, conditioned upon:

(1) the offender’s mandatory completion, to the satisfaction of the court, of a domestic violence intervention program designed to treat batterers in accordance with the provisions of subsection (G);

(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16‑25‑65;

(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim; and

(4) making restitution as the court deems appropriate.

(F) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.

(G) An offender who participates in a domestic violence intervention program pursuant to this section, shall participate in a program offered through a government agency, nonprofit organization, or private provider selected and approved by the Circuit Solicitor with jurisdiction over the offense or the Attorney General if the offense is prosecuted by the Attorney General’s Office. If the offender moves to a different circuit after entering a treatment program selected by the Circuit Solicitor, the Circuit Solicitor for the county in which the offender resides shall have the authority to select and approve the batterer’s treatment program. The offender shall pay a reasonable fee, if required, for participation in the program but no person may be denied participation due to inability to pay. If the offender suffers from a substance abuse problem or mental health concern, the judge may order, or the program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61‑12‑20 or the Department of Mental Health or Veterans’ Hospital, respectively. The offender must pay a reasonable fee for participation in the substance abuse treatment or mental health program, if required, but no person may be denied participation due to inability to pay.

(H) A person who violates the terms and conditions of an order of protection issued in this State pursuant to Chapter 4, Title 20, the ‘Protection from Domestic Abuse Act’, or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

(I) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case or be tried in the person’s absence.”

**Domestic violence of a high and aggravated nature, offense revised**

SECTION 5. Section 16‑25‑65 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑65. (A) A person who violates Section 16‑25‑20(A) is guilty of the offense of domestic violence of a high and aggravated nature when one of the following occurs. The person:

(1) commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results;

(2) commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

(3) violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years.

(C) The provisions of subsection (A) create a statutory offense of domestic violence of a high and aggravated nature and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature.

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

(1) using a deadly weapon;

(2) knowingly and intentionally impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member and thereby causing stupor or loss of consciousness for any period of time;

(3) committing the offense in the presence of a minor;

(4) committing the offense against a person he knew, or should have known, to be pregnant;

(5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or

(6) using physical force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.”

**Violent crimes defined, domestic violence in the first degree added**

SECTION 6. Section 16‑1‑60 of the 1976 Code, as last amended by Act 7 of 2015, is further amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10); attempted murder (Section 16‑3‑29); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)), criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first, second, and third degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B)); kidnapping (Section 16‑3‑910); trafficking in persons (Section 16‑3‑2020); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); domestic violence of a high and aggravated nature (Section 16‑25‑65); domestic violence in the first degree (Section 16‑25‑20(B)); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑11‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); sexual exploitation of a minor first degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

**Three strikes, serious offenses, domestic violence in the first degree and domestic violence of a high and aggravated nature added**

SECTION 7. Section 17‑25‑45(C)(2) of the 1976 Code is amended to read:

“(2) ‘Serious offense’ means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16‑3‑220 Lynching, Second degree

16‑3‑210(C) Assault and battery by mob, Second degree

16‑3‑600(B) Assault and battery of a high and aggravated nature

16‑3‑810 Engaging child for sexual performance

16‑9‑220 Acceptance of bribes by officers

16‑9‑290 Accepting bribes for purpose of procuring public office

16‑11‑110(B) Arson, Second degree

16‑11‑312(B) Burglary, Second degree

16‑11‑380(B) Theft of a person using an automated teller machine

16‑13‑210(1) Embezzlement of public funds

16‑13‑230(B)(3) Breach of trust with fraudulent intent

16‑13‑240(1) Obtaining signature or property by false pretenses

16‑25‑20(B) Domestic violence, First degree

16‑25‑65 Domestic violence of a high and aggravated nature

38‑55‑540(3) Insurance fraud

44‑53‑370(e) Trafficking in controlled substances

44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.”

**Uniform traffic tickets, domestic violence in the second and third degree offenses added**

SECTION 8. Section 56‑7‑10(A) of the 1976 Code is amended to read:

“(A) There will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses:

Offense Citation

Interfering with Police Officer

Serving Process Section 16‑5‑50

Dumping Trash on Highway/Private

Property Section 16‑11‑700

Indecent Exposure Section 16‑15‑130

Disorderly Conduct Section 16‑17‑530

Damaging Highway Section 57‑7‑10

Place Glass, Nails, Etc. on Highway Section 57‑7‑20

Obstruction of Highway by Railroad

Cars, Etc. Section 57‑7‑240

Signs Permitted on Interstate Section 57‑25‑140

Brown Bagging Section 61‑5‑20

Drinking Liquors in Public

Conveyance Section 61‑13‑360

Poles Dragging on Highway Section 57‑7‑80

Open Container Section 61‑9‑87

Purchase or Possession of Beer or

Wine by a Person Under Age Section 63‑19‑2440

Purchase or Possession of

Alcoholic Liquor by a Person

Under Age Twenty‑One Section 63‑19‑2450

Unlawful Possession and

Consumption of Alcoholic Liquors Section 61‑5‑30

Sale of Beer or Wine on Which

Tax Has Not Been Paid Section 61‑9‑20

Falsification of Age to Purchase

Beer or Wine Section 61‑9‑50

Unlawful Purchase of Beer or

Wine for a Person Who Cannot

Legally Buy Section 61‑9‑60

Unlawful Sale or Purchase of Beer

or Wine, Giving False Information

as to Age, Buying Beer or Wine

Unlawfully for Another Section 61‑9‑85

Employment of a Person Under the

Age of Twenty‑One as an

Employee in Retail or Wholesale

or Manufacturing Liquor Business Section 61‑13‑340

Failure to Remove Doors from

Abandoned Refrigerators Section 16‑3‑1010

Malicious Injury to Animals

or Personal Property Section 16‑11‑510

Timber, Logs, or Lumber Cutting,

Removing, Transporting Without

Permission, Valued at Less Than

Fifty Dollars Section 16‑11‑580

Littering Section 16‑11‑700

Larceny of a Bicycle Valued at

Less Than One Hundred Dollars Section 16‑13‑80

Shoplifting Section 16‑13‑110

Cock Fighting Section 16‑17‑650

Ticket Scalping Section 16‑17‑710

Domestic Violence,

second and third degree Section 16‑25‑20

Glue Sniffing Section 44‑53‑1110

Trespassing Section 16‑11‑755

Trespassing Section 16‑11‑600

Trespassing Section 16‑11‑610

Trespassing Section 16‑11‑620

Negligent Operation of

Watercraft; Operation of

Watercraft While Under Influence

of Alcohol or Drugs Section 50‑21‑110

Negligence of Boat Livery to

Provide Proper Equipment and

Registration Section 50‑21‑120

Interference with Aids to

Navigation or Regulatory

Markers or Operation of

Watercraft in Prohibited Area Section 50‑21‑170

Operation of Watercraft Without

a Certificate of Title Section 50‑23‑190

Parking on private property without

permission Section 16‑11‑760

Certificate of Veterinary Inspection;

Requirement for Out‑of‑State

Livestock or Poultry Section 47‑4‑60

Inhibition of Livestock Inspection Section 47‑4‑120

Imported Swine Section 47‑6‑50

Operating Equine Sales Facility or

Livestock Market Without Permit Section 47‑11‑20

Liability of Person Removing

Livestock for Slaughter Section 47‑11‑120

Notice to Disinfect Section 47‑13‑310

Quarantine of Livestock or Poultry Section 47‑4‑70

Unlawful for Horse to Enter

State Unless Tested Section 47‑13‑1350

Quarantine of Exposed Horses Section 47‑13‑1360

Proof of Test Required for Public

Assembly of Horses Section 47‑13‑1370

False Certificates Section 47‑13‑1390

Unlawful to Feed Garbage to Swine Section 47‑15‑20

Notification Required from Certain

Persons Disposing of Garbage Section 47‑15‑40

Sale of Uninspected Meat and Meat

Products Section 47‑17‑60

Sale of Uninspected Poultry

and Poultry Product Section 47‑19‑70”

**Domestic violence, firearms and ammunition prohibitions, penalties**

SECTION 9. Section 16‑25‑30 of the 1976 Code, as added by Act 59 of 2009, is amended to read:

“Section 16‑25‑30. (A) Notwithstanding the provisions of Section 16‑23‑30, it is unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if the person:

(1) has been convicted of a violation of Section 16‑25‑20(B) or 16‑25‑65, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16‑25‑20(B) or Section 16‑25‑65;

(2) has been convicted of a violation of Section 16‑25‑20(C) and the court made specific findings and concluded that the person caused moderate bodily injury to their own household member, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16‑25‑20(C) and the court made specific findings and concluded that the person caused moderate bodily injury to their own household member;

(3) has been convicted of a violation of Section 16‑25‑20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16‑25‑20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition;

(4) is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. The standard applied in this subsection applies only to the determination of whether to prohibit a person from possessing a firearm or ammunition and does not apply to the issuance of the order pursuant to Chapter 4, Title 20; or

(5) is subject to a valid order of protection related to domestic or family violence issued by a court of another state, tribe, or territory in compliance with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. The standard applied in this subsection applies only to the determination of whether to prohibit a person from possessing a firearm or ammunition and does not apply to the issuance of the order pursuant to Chapter 4, Title 20.

(B) A person who violates subsection (A)(1) is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than five years, or both. A person who violates subsection (A)(2) or (A)(3) is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. A person who violates subsection (A)(4) or (A)(5) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C) A person must not be considered to have been convicted of domestic violence for purposes of this section unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense described in this section for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise. A person must not be considered to have been convicted of domestic violence for purposes of this section if the conviction has been expunged, set aside, or is an offense for which the person has been pardoned.

(D) At the time a person is convicted of violating the provisions of Section 16‑25‑20 or 16‑25‑65, or upon the issuance of an order of protection pursuant to Chapter 4, Title 20, the court must deliver to the person a written form that conspicuously bears the following language: ‘Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16‑25‑20 or 16‑25‑65, or a person who is subject to a valid order of protection pursuant to Chapter 4, Title 20, to ship, transport, possess, or receive a firearm or ammunition.’

(E) The provisions of this section prohibiting the possession of firearms and ammunition by persons who have been convicted of domestic violence shall apply to a person who has been convicted of domestic violence for:

(1) life, if the person has been convicted of a violation of Section 16‑25‑65, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16‑25‑65;

(2) ten years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if the person has been convicted of a violation of Section 16‑25‑20(B), or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16‑25‑20(B);

(3) three years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if the person has been convicted of a violation of Section 16‑25‑20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16‑25‑20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition; or

(4) the duration of the order of protection, if the person is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or is subject to a valid order of protection related to domestic or family violence issued by a court of another state, tribe, or territory in compliance with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition.

(F)(1) Following the period of time established in subsection (E), if the person has not been convicted of any other domestic violence offenses pursuant to this article or similar offenses in another jurisdiction, no domestic violence charges are currently pending against the person, and the person is not otherwise prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition pursuant to any other State law, the person’s right to ship, transport, receive, or possess a firearm or ammunition shall be restored.

(2) Following the period of time established in subsection (E), if the person requests in writing to the South Carolina Law Enforcement Division (SLED), SLED shall notify the National Instant Criminal Background Check System (NICS) that the State has restored the person’s right to ship, transport, receive, or possess a firearm or ammunition, and shall request immediate removal of the person’s name to whom the restrictions contained in this section apply.”

Part III

Bond Reform

**Domestic violence, bond, twenty‑four hour bond hearing requirement**

SECTION 10. Section 17‑15‑30 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

(a) a person’s criminal record;

(b) any charges pending against a person at the time release is requested;

(c) all incident reports generated as a result of the offense charged; and

(d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person’s criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.”

**Domestic violence, magistrates court bond, twenty‑four hour bond hearing requirement**

SECTION 11. Section 22‑5‑510 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall provide the court with the following information:

(1) the person’s criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person’s criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.”

**Bond, conforming change**

SECTION 12. Section 17‑15‑10 of the 1976 Code is amended to read:

“Section 17‑15‑10. (A) A person charged with a noncapital offense triable in either the magistrates, county or circuit court, shall, at his appearance before any of such courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community or an individual will result. If such a determination is made by the court, it may impose any one or more of the following conditions of release:

(1) require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court;

(2) place the person in the custody of a designated person or organization agreeing to supervise him;

(3) place restrictions on the travel, association, or place of abode of the person during the period of release;

(4) impose any other conditions deemed reasonably necessary to assure appearance as required, including a condition that the person return to custody after specified hours.

(B) A person charged with the offense of burglary in the first degree pursuant to Section 16‑11‑311 may have his bond hearing for that charge in summary court unless the solicitor objects.”

**Domestic violence, bond, court required to consider certain factors**

SECTION 13. Section 16‑25‑120(A) and (B) of the 1976 Code is amended to read:

“(A) In addition to the provisions of Section 17‑15‑30, the court must consider the factors provided in subsection (B) when considering release of a person on bond who is charged with a violent offense, as defined in Section 16‑1‑60, when the victim of the offense is a household member, as defined in Section 16‑25‑10, and the person:

(1) is subject to the terms of a valid order of protection or restraining order at the time of the offense in this State or another state; or

(2) has a previous conviction involving the violation of a valid order of protection or restraining order in this State or another state.

(B) The court must consider the following factors before release of a person on bond who is subject to the provisions of subsection (A):

(1) whether the person has a history of domestic violence, as defined in this article, or a history of other violent offenses, as defined in Section 16‑1‑60;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of a court or other governmental agency; and

(4) whether the person poses a potential threat to another person.”

**Bond, amendment of an order, clarification as to court with jurisdiction over the offense may amend an order**

SECTION 14. Section 17‑15‑50 of the 1976 Code is amended to read:

“Section 17‑15‑50. The court with jurisdiction of the offense, at any time after notice and hearing, may amend the order to impose additional or different conditions of release.”

**Bond, revocation, ten‑day summary court concurrent jurisdiction with the circuit court to revoke bond**

SECTION 15. Section 17‑15‑55 of the 1976 Code, as last amended by Act 144 of 2014, is further amended by adding an appropriately lettered subsection at the end to read:

“( ) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ten days from the date bond is first set on a charge by the summary court to determine if bond should be revoked.”

Part IV

Social Policy

**Domestic violence, warrantless arrest and search, investigation required to be documented on incident report form, discretionary arrest**

SECTION 16. Section 16‑25‑70(A) and (B) of the 1976 Code, as last amended by Act 319 of 2008, is further amended to read:

“(A) A law enforcement officer may arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16‑25‑20, 16‑25‑65, or 16‑25‑125, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. The investigation must be documented on an incident report form which must be maintained by the investigating agency. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.

(B) A law enforcement officer may arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16‑25‑20 or 16‑25‑65 even if the act did not take place in the presence of the officer. A law enforcement officer may not make an arrest if he determines probable cause does not exist after consideration of the factors set forth in subsection (D) and observance that no physical manifestation of injury is present. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement agency.”

**Victims**’ **compensation, definition of “victim” revised**

SECTION 17. Section 16‑3‑1110(8) of the 1976 Code is amended to read:

“(8) ‘Victim’ means a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime. The term includes immediate family members of a homicide victim or of any other victim who is either incompetent or a minor and includes an intervenor. The term also includes a minor who is a witness to a domestic violence offense pursuant to Section 16‑25‑20 or Section 16‑25‑65.”

**Department of Social Services, domestic violence victims**’ **access to childcare services**

SECTION 18. The Department of Social Services in consultation with the South Carolina Voucher Program is directed to study current regulations and policies to ensure a domestic violence survivor may apply for childcare and receive childcare services while living in a traditional shelter or while sheltering in the home. The availability of such childcare must be designed to assist the survivor in receiving necessary services related to the care of the child in order to encourage participation in relevant court hearings if the survivor so chooses. The Department of Social Services and the South Carolina Voucher Program shall review relevant regulations as provided in this SECTION and report to the General Assembly by January 1, 2016, on whether current regulations are sufficient to meet the requirements of this SECTION or new regulations must be submitted to the General Assembly.

**Pretrial Intervention Program, batterers**’ **treatment program requirements**

SECTION 19. Section 17‑22‑90(7) of the 1976 Code is amended to read:

“(7) if the offense is domestic violence pursuant to Section 16‑25‑20, agree in writing to successful completion of a batterer’s treatment program selected and approved by the Circuit Solicitor with jurisdiction over the offense or the Attorney General if the offense is prosecuted by the Attorney General’s Office. If the offender moves to a different circuit after entering a treatment program selected by the Circuit Solicitor, the Circuit Solicitor for the county in which the offender resides shall have the authority to select and approve the batterer’s treatment program.”

**Domestic Violence Advisory Committee created**

SECTION 20. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 3

Domestic Violence Advisory Committee

Section 16‑25‑310. For purposes of this article:

(1) ‘Committee’ means the Domestic Violence Advisory Committee.

(2) ‘Household member’ means a household member as defined in Section 16‑25‑10.

(3) ‘Meeting’ means both in‑person meetings and meetings through telephone conferencing.

(4) ‘Provider of medical care’ means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.

(5) ‘Working day’ means Monday through Friday, excluding official state holidays.

Section 16‑25‑320. (A) There is created a multidisciplinary Domestic Violence Advisory Committee composed of:

(1) the Attorney General of the State of South Carolina, or a designee, who serves ex officio;

(2) the Director of the South Carolina Department of Social Services, or a designee, who serves ex officio;

(3) the Director of the South Carolina Department of Health and Environmental Control, or a designee, who serves ex officio;

(4) the Director of the South Carolina Criminal Justice Academy, or a designee, who serves ex officio;

(5) the Chief of the South Carolina Law Enforcement Division, or a designee, who serves ex officio;

(6) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services, or a designee, who serves ex officio;

(7) the Director of the South Carolina Department of Mental Health, or a designee, who serves ex officio;

(8) a county coroner or medical examiner, appointed by the Governor on the recommendation of the South Carolina Criminal Justice Academy, who serves ex officio;

(9) a solicitor, appointed by the Governor on the recommendation of the Attorney General, who serves ex officio;

(10) a sheriff, appointed by the Governor on the recommendation of the Sheriffs’ Association;

(11) a victim advocate, appointed by the Governor on the recommendation of the State Office of Victim Assistance of the Office of the Governor;

(12) a physician with experience in treating victims of domestic violence, appointed by the Governor on the recommendation of the South Carolina Medical Association;

(13) two members of the public at large dedicated to the issue of domestic violence, appointed by the Governor;

(14) a police chief, appointed by the Governor on the recommendation of the Law Enforcement Officers’ Association;

(15) one member of the South Carolina Senate, appointed by the Senate Judiciary Committee Chairman; and

(16) one member of the South Carolina House of Representatives, appointed by the House Judiciary Committee Chairman.

(B)(1) If an individual enumerated in subsection (A)(1) through (7) designates an employee to serve as the committee member, the designee must have administrative or program responsibilities for domestic violence.

(2) A member appointed by the Governor shall serve a term of four years and until a successor is appointed and qualifies.

(C) The members of the committee shall elect a chairman and vice chairman from among the membership by a majority vote. The chairman and vice chairman shall serve terms of two years.

(D) The committee shall hold meetings at least quarterly. A majority of the committee constitutes a quorum for the purpose of holding a meeting.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

Section 16‑25‑330. (A) The purpose of the Domestic Violence Advisory Committee is to decrease the incidences of domestic violence by:

(1) developing an understanding of the causes and incidences of domestic violence;

(2) developing plans for and implementing changes within the agencies represented on the committee which will prevent domestic violence; and

(3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent domestic violence.

(B) To achieve its purpose, the committee shall:

(1) undertake annual statistical studies of the incidences and causes of domestic violence in this State, including an analysis of:

(a) community and public and private agency involvement with the victims and their families;

(b) whether the abuser has a previous criminal record involving domestic violence or assault and battery;

(c) recidivism rates;

(d) the presence of alcohol or drug use;

(e) whether the abuser has participated in a batterer treatment program or other similar treatment program and the name of the program;

(f) the success or failure rate of approved treatment programs;

(g) married versus unmarried rates of violence; and

(h) the rate of domestic violence per county;

(2) consider training, including cross‑agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;

(3) determine the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee’s annual report;

(4) educate the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic violence, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;

(5) develop and implement policies and procedures for its own governance and operation;

(6) submit to the Governor and the General Assembly a publicly available annual written report and any other reports prepared by the committee including, but not limited to, the committee’s findings and recommendations; and

(7) review closed domestic violence cases selected by the Attorney General or solicitor’s representative on the committee to provide the commission with the best opportunity to fulfill its duties under the section.

Section 16‑25‑340. Upon request of the committee and as necessary to carry out the committee’s purpose and duties, the committee immediately must be provided:

(1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the department pursuant to this article;

(2) access to all information and records maintained by any state, county, or local government agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

Section 16‑25‑350. When necessary in the discharge of the duties of the committee and upon application of the committee, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to a representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department’s duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

Section 16‑25‑360. (A) Meetings of the committee are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing an individual case of domestic violence.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing an individual case of domestic violence.

(C) Information identifying a victim or a household member, guardian, or caretaker of a victim, or an alleged or suspected perpetrator of domestic violence may not be disclosed during a public meeting, and information regarding the involvement of any agency with the victim, alleged perpetrator, and other household members may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 16‑25‑370. (A) All information and records acquired by the committee in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee’s and department’s duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the committee which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the committee’s purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 16‑25‑360 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.”

**Community Domestic Violence Coordinating Councils reconstituted**

SECTION 21. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 5

Community Domestic Violence Coordinating Councils

Section 16‑25‑510. The circuit solicitor shall facilitate the development of community domestic violence coordinating councils in each county or judicial circuit based upon public‑private sector collaboration.

Section 16‑25‑520. The purpose of a community domestic violence coordinating council is to:

(1) increase the awareness and understanding of domestic violence and its consequences;

(2) reduce the incidence of domestic violence in the county or area served; and

(3) enhance and ensure the safety of battered individuals and their children.

Section 16‑25‑530. The duties and responsibilities of a community domestic violence coordinating council include, but are not limited to:

(1) promoting effective strategies of intervention for identifying the existence of domestic violence and for intervention by public and private agencies;

(2) establishing interdisciplinary and interagency protocols for intervention with survivors of domestic violence;

(3) facilitating communication and cooperation among agencies and organizations that are responsible for addressing domestic violence;

(4) monitoring, evaluating, and improving the quality and effectiveness of domestic violence services and protections in the community;

(5) providing public education and prevention activities; and

(6) providing professional training and continuing education activities.

Section 16‑25‑540. Membership on a community domestic violence coordinating council may include, but is not limited to, representatives from magistrates court, family court, law enforcement, solicitor’s office, probation and parole, batterer intervention programs or services, nonprofit battered individual’s program advocates, counseling services for children, legal services, victim assistance programs, the medical profession, substance abuse counseling programs, the clergy, survivors of domestic violence, local department of social services, and the education community. Members on the council shall develop memoranda of agreement among and between themselves to ensure clarity of roles and responsibilities in providing services to victims of domestic violence.

Section 16‑25‑550. Each community domestic violence coordinating council is responsible for generating revenue for its operation and administration.”

**Health education, subject of domestic violence to be included**

SECTION 22. Section 59‑32‑30(A)(2) of the 1976 Code is amended to read:

“(2) Beginning with the 1988‑1989 school year, for grades six through eight, instruction in comprehensive health must include the following subjects: community health, consumer health, environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, mental and emotional health, and reproductive health education. Sexually transmitted diseases are to be included as a part of instruction. At the discretion of the local board, instruction in family life education or pregnancy prevention education or both may be included, but instruction in these subjects may not include an explanation of the methods of contraception before the sixth grade. Beginning with the 2016‑2017 school year, for grades six through eight, instruction in comprehensive health education also must include the subject of domestic violence.”

**Repeal**

SECTION 23. Section 43‑1‑260 of the 1976 Code is repealed.

Part V

Permanent Restraining Orders

**Permanent restraining orders, emergency restraining orders**

SECTION 24. Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Article 18

Permanent Restraining Orders

Section 16‑3‑1900. For purposes of this article:

(1) ‘Complainant’ means a victim of a criminal offense that occurred in this State, a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State, or a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(2) ‘Conviction’ means a conviction, adjudication of delinquency, guilty plea, nolo contendere plea, or forfeiture of bail.

(3) ‘Criminal offense’ means an offense against the person of an individual when physical or psychological harm occurs, including both common law and statutory offenses contained in Sections 16‑3‑1700, 16‑3‑1710, 16‑3‑1720, 16‑3‑1730, 16‑25‑20, 16‑25‑30, 16‑25‑65 and 23‑3‑430; criminal sexual conduct offenses pled down to assault and battery of a high and aggravated nature; domestic violence offenses pled down to assault and battery or assault and battery of a high and aggravated nature; and the common law offense of attempt, punishable pursuant to Section 16‑1‑80.

(4) ‘Family’ means a spouse, child, parent, sibling, or a person who regularly resides in the same household.

(5) ‘Respondent’ means a person who was convicted of a criminal offense for which the victim was the subject of the crime or the witness who assisted the prosecuting entity in prosecuting the criminal offense.

(6) ‘Victim’ means:

(a) a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a criminal offense; or

(b) the spouse, parent, child, or lawful representative of a victim who is deceased, a minor, incompetent, or physically or psychologically incapacitated.

‘Victim’ does not include a person who is the subject of an investigation for, charged with, or has been convicted of the offense in question; a person, including a spouse, parent, child, or lawful representative, who is acting on behalf of a suspect, juvenile offender, or defendant, unless such actions are required by law; or a person who was imprisoned or engaged in an illegal act at the time of the offense.

(7) ‘Witness’ means a person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to being called or likely to be called as a witness for the prosecution, whether or not any action or proceeding has been commenced.

Section 16‑3‑1910. (A) The circuit court and family court have jurisdiction over an action seeking a permanent restraining order.

(B) To seek a permanent restraining order, a person must:

(1) request the order in general sessions court or family court, as applicable, at the time the respondent is convicted for the criminal offense committed against the complainant; or

(2) file a summons and complaint in common pleas court in the county in which:

(a) the respondent resides when the action commences;

(b) the criminal offense occurred; or

(c) the complainant resides, if the respondent is a nonresident of the State or cannot be found.

(C) The following persons may seek a permanent restraining order:

(1) a victim of a criminal offense that occurred in this State;

(2) a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State; or

(3) a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(D) A complaint must:

(1) state that the respondent was a person convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity;

(2) state when and where the conviction took place, and the name of the prosecuting entity and court;

(3) be verified; and

(4) inform the respondent of his right to retain counsel to represent the respondent at the hearing on the complaint.

(E) A complainant shall provide his address to the court and to any appropriate law enforcement agencies. The complainant’s address must be kept under seal, omitted from all documents filed with the court, and is not subject to Freedom of Information Act requests pursuant to Section 30‑4‑10, et seq. The complainant may designate an alternative address to receive notice of motions or pleadings from the respondent.

(F) The circuit court must provide forms to facilitate the preparation and filing of a summons and complaint for a permanent restraining order by a complainant not represented by counsel. The court must not charge a fee for filing a summons and complaint for a permanent restraining order.

(G) A complainant shall serve his summons and complaint for a permanent restraining order along with a notice of the date, time, and location of the hearing on the complaint pursuant to Rule 4 of the South Carolina Rules of Civil Procedure. The summons must require the respondent to answer or otherwise plead within thirty days of the date of service.

(H) The court may enter a permanent restraining order by default if the respondent was served in accordance with the provisions of this section and fails to answer as directed, or fails to appear on a subsequent appearance or hearing date agreed to by the parties or set by the court.

(I) The hearing on a permanent restraining order may be done electronically via closed circuit television or through other electronic means when possible. If the respondent is confined in a Department of Corrections facility, the complainant may come to the Department of Probation, Parole and Pardon Services in Richland County to have the hearing held electronically via closed circuit television or through other electronic means.

(J) Upon a finding that the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable, the court may issue a permanent restraining order. In determining whether to issue a permanent restraining order, physical injury to the victim or witness is not required.

(K) The terms of a permanent restraining order must protect the victim or witness and may include enjoining the respondent from:

(1) abusing, threatening to abuse, or molesting the victim, witness, or members of the victim’s or witness’ family;

(2) entering or attempting to enter the victim’s or witness’ place of residence, employment, education, or other location; and

(3) communicating or attempting to communicate with the victim, witness, or members of the victim’s or witness’ family in a way that would violate the provisions of this section.

(L) A permanent restraining order must conspicuously bear the following language: ‘Violation of this order is a felony criminal offense punishable by up to five years in prison.’

(M)(1) A permanent restraining order remains in effect for a period of time to be determined by the judge. If a victim or witness is a minor at the time a permanent restraining order is issued on the minor’s behalf, the victim or witness, upon reaching the age of eighteen, may file a motion with the circuit court to have the permanent restraining order removed.

(2) The court may modify the terms of a permanent restraining order upon request of the complainant, including extending the duration of the order or lifting the order.

(N) Notwithstanding another provision of law, a permanent restraining order is enforceable throughout this State.

(O) Law enforcement officers shall arrest a respondent who is acting in violation of a permanent restraining order after service and notice of the order is provided. A respondent who is in violation of a permanent restraining order is guilty of a felony, if the underlying conviction that was the basis for the permanent restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the permanent restraining order was a misdemeanor, a respondent who is in violation of a permanent restraining order is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(P) Permanent restraining orders are protection orders for purposes of Section 20‑4‑320, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, as long as all other criteria of Article 3, Chapter 4, Title 20 are met. However, permanent restraining orders are not orders of protection for purposes of Section 16‑25‑30.

(Q) The remedies provided by this section are not exclusive, but are additional to other remedies provided by law.

Section 16‑3‑1920. (A) The magistrates court has jurisdiction over an action seeking an emergency restraining order.

(B) An action for an emergency restraining order must be filed in the county in which:

(1) the respondent resides when the action commences;

(2) the criminal offense occurred; or

(3) the complainant resides, if the respondent is a nonresident of the State or cannot be found.

(C) A summons and complaint for an emergency restraining order may be filed by:

(1) a victim of a criminal offense that occurred in this State;

(2) a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State; or

(3) a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(D) The complaint must:

(1) state that the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity;

(2) state when and where the conviction took place, and the name of the prosecuting entity and court;

(3) be verified; and

(4) inform the respondent of his right to retain counsel to represent the respondent at the hearing on the complaint.

(E) A complainant shall provide his address to the court and to any appropriate law enforcement agencies. The complainant’s address must be kept under seal, omitted from all documents filed with the court, and is not subject to Freedom of Information Act requests pursuant to Section 30‑4‑10, et seq. The complainant may designate an alternative address to receive notice of motions or pleadings from the respondent.

(F) The court must provide forms to facilitate the preparation and filing of a summons and complaint for an emergency restraining order by a complainant not represented by counsel. The court must not charge a fee for filing a summons and complaint for an emergency restraining order.

(G)(1) Except as provided in subsection (H), the court shall hold a hearing on an emergency restraining order within fifteen days of the filing of a summons and complaint, but not sooner than five days after service has been perfected upon the respondent.

(2) The court shall serve a copy of the summons and complaint upon the respondent at least five days before the hearing in the same manner required for service as provided in the South Carolina Rules of Civil Procedure.

(3) The hearing may be done electronically via closed circuit television or through other electronic means when possible. If the respondent is confined in a Department of Corrections facility, the complainant may come to the Department of Probation, Parole and Pardon Services in Richland County to have the hearing held electronically via closed circuit television or through other electronic means.

(4) The court may issue an emergency restraining order upon a finding that:

(a) the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable; and

(b) a restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order.

In determining whether to issue an emergency restraining order, physical injury to the victim or witness is not required.

(H)(1) Within twenty‑four hours after the filing of a summons and complaint seeking an emergency restraining order, the court may hold an emergency hearing and issue an emergency restraining order without giving the respondent notice of the motion for the order if:

(a) the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable;

(b) a restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order;

(c) it clearly appears from specific facts shown by a verified complaint or affidavit that immediate injury, loss, or damage will result to the victim or witness before the respondent can be heard; and

(d) the complainant certifies to the court that one of the following has occurred:

(i) efforts have been made to serve the notice; or

(ii) there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the respondent were given prior notice of the complainant’s efforts to obtain judicial relief.

In determining whether to issue an emergency restraining order, physical injury to the victim or witness is not required.

(2) An emergency restraining order granted without notice must be endorsed with the date and hour of issuance and entered on the record with the magistrates court. The order must be served upon the respondent together with a copy of the summons, complaint, and a Rule to Show Cause why the order should not be extended until the hearing for a permanent restraining order.

(I) The terms of an emergency restraining order must protect the victim or witness and may include temporarily enjoining the respondent from:

(1) abusing, threatening to abuse, or molesting the victim, witness, or members of the victim’s or witness’ family;

(2) entering or attempting to enter the victim’s or witness’ place of residence, employment, education, or other location; and

(3) communicating or attempting to communicate with the victim, witness, or members of the victim’s or witness’ family in a way that would violate the provisions of this section.

(J) An emergency restraining order conspicuously must bear the following language: ‘Violation of this order is a felony criminal offense punishable by up to five years in prison.’

(K) The court shall serve the respondent with a certified copy of the emergency restraining order and provide a copy to the complainant and to the local law enforcement agencies having jurisdiction over the area where the victim or witness resides. Service must be made without charge to the complainant.

(L)(1) An emergency restraining order remains in effect until a hearing on a restraining order. However, if a complainant does not seek a permanent restraining order pursuant to Section 16‑3‑1910 within forty‑five days of the issuance of an emergency restraining order, the emergency restraining order no longer remains in effect.

(2) The court may modify the terms of an emergency restraining order.

(M) Notwithstanding another provision of law, an emergency restraining order is enforceable throughout this State.

(N) Law enforcement officers shall arrest a respondent who is acting in violation of an emergency restraining order after service and notice of the order is provided. An arrest warrant is not required. A respondent who is in violation of an emergency restraining order is guilty of a felony, if the underlying conviction that was the basis for the emergency restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the emergency restraining order was a misdemeanor, a respondent who is in violation of an emergency restraining order is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(O) Emergency restraining orders are protection orders for purposes of Section 20‑4‑320, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, as long as all other criteria of Article 3, Chapter 4, Title 20 are met. However, permanent restraining orders are not orders of protection for purposes of Section 16‑25‑30.

(P) The remedies provided by this section are not exclusive but are additional to other remedies provided by law.”

Part VI

Expungement

**Expungement, first offense, third degree domestic violence offenses included**

SECTION 25. Section 22‑5‑910 of the 1976 Code, as last amended by Act 276 of 2014, is further amended to read:

“Section 22‑5‑910. (A) Following a first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this subsection does not apply to:

(1) an offense involving the operation of a motor vehicle; or

(2) a violation of Title 50 or the regulations promulgated pursuant to Title 50 for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses are authorized.

(B) Following a first offense conviction for domestic violence in the third degree pursuant to Section 16‑25‑20(D), the defendant after five years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant.

(C) If the defendant has had no other conviction during the three‑year period as provided in subsection (A), or during the five‑year period as provided in subsection (B), the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred prior to June 1, 1992.

(D) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34‑11‑95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(E) As used in this section, ‘conviction’ includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail.”

Part VII

Savings Clause, Severability Clause, and Effective Date

**Savings clause**

SECTION 26. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Severability clause**

SECTION 27. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this Act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 28. This act takes effect upon approval by the Governor.

Ratified the 2nd day of June, 2015.

Approved the 4th day of June, 2015.

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