**A** **BILL**

TO AMEND CHAPTER 25, TITLE 16 OF THE 1976 CODE, RELATING TO DOMESTIC VIOLENCE, BY ADDING ARTICLE 8, TO CREATE THE OFFENSE OF TEEN DATING VIOLENCE, TO PROVIDE A PENALTY, TO ALLOW VICTIMS TO SEEK ORDERS OF PROTECTION OR RESTRAINING ORDERS UNDER CERTAIN CIRCUMSTANCES, TO PROHIBIT A PERSON WHO VIOLATES THE PROVISIONS OF THE ARTICLE FROM PARTICIPATING IN A PRETRIAL INTERVENTION PROGRAM, AND TO DEFINE NECESSARY TERMS; AND TO AMEND SECTION 16-3-755 OF THE 1976 CODE, RELATING TO SEXUAL BATTERY WITH A STUDENT, TO REVISE THE STRUCTURE OF THE OFFENSE TO PROVIDE THE SAME PENALTY FOR PERSONS WHO COMMIT THE OFFENSE WHEN THE VICTIM IS SIXTEEN YEARS OF AGE OR OLDER AND TO PROVIDE A MANDATORY MINIMUM SENTENCE OF ONE YEAR FOR A CONVICTION, NO PART OF WHICH MAY BE SUSPENDED NOR PROBATION GRANTED.

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

SECTION 1. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 8

Teen Dating Violence Prevention

Section 16-25-810. For purposes of this article, the term:

(1) ‘Teen dating violence’ means physical, sexual, psychological, or emotional violence between persons eighteen years of age or younger within a dating relationship.

(2) ‘Violence’ means any assault, aggravated assault, battery, aggravated battery, sexual assault or battery or criminal sexual conduct offense, stalking, harassment, or kidnapping resulting in the victim having reasonable cause to believe that the victim is in imminent danger of becoming the subject of an act of violence, or threats or attempts to abuse the victim, or physical injury or death to the victim.

Section 16-25-820. (A) A person commits the offense of teen dating violence when the victim, a current or former partner in a dating relationship, has reasonable cause to believe that he is in imminent danger of becoming the subject of an act of teen dating violence or when a victim presents sufficient evidence that the person threatened to, attempted to, or actually physically abused the victim.

(B) A person who violates the provisions of this section is guilty of the offense of teen dating violence and must be punished, upon conviction, pursuant to the provisions of Section 16‑25‑20(B). A violation of the provisions of this section is not considered a lesser‑included offense of one of the offenses listed in subsection Section 16-25-810(2). The penalties provided in this section are in addition to the penalties provided for any underlying offense, and any sentence imposed pursuant to the provisions of the section must be served consecutively to a sentence imposed for an underlying offense.

(C) A victim sixteen years of age or older of a violation of this section may seek an order of protection pursuant to the provisions of Article 1, Chapter 4, Title 20 in the family court or a restraining order in magistrates court pursuant to the provisions of Article 17, Chapter 3, Title 16, without parental or guardian consent. However, the parent or guardian of the victim must be notified by the appropriate court within twenty‑four hours of the issuance of the order of protection or restraining order. Victims of violations of this section under sixteen years of age must have parental or guardian consent to seek an order of protection or restraining order pursuant to the provisions of this section.

(D) In addition, a person who is convicted of a violation of this section is not eligible to participate in a pretrial intervention program pursuant to Article 1, Chapter 22, Title 17.”

SECTION 2. Section 59‑32‑10 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) ‘Teen dating violence’ means teen dating violence as defined in Section 16‑25‑810.”

SECTION 3. Section 59-32-20 of the 1976 Code is amended to read:

“Section 59‑32‑20. (A) ~~Before August 1, 1988, the~~ The board, through the department, shall select or develop an instructional unit with separate components addressing the subjects of reproductive health education, family life education, pregnancy prevention education, ~~and~~ sexually transmitted diseases, and teen dating violence education and make the instructional unit available to local school districts. The board, through the department, also shall make available information about other programs developed by other states upon request of a local school district.

(B) In addition to the provisions of subsection (A), before September 1, 2015, the board, through the department, shall select or develop instructional units in sexual abuse and assault awareness and prevention, with separate units appropriate for each age level from four‑year‑old kindergarten through twelfth grade.”

SECTION 4. Section 59-32-30 of the 1976 Code is amended to read:

“Section 59-32-30. (A) Pursuant to guidelines developed by the board, each local school board shall implement the following program of instruction:

(1) ~~Beginning with the 1988‑89 school year, for~~ For grades kindergarten through five, instruction in comprehensive health education 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, and mental and emotional health. Sexually transmitted diseases as defined in the annual Department of Health and Environmental Control List of Reportable Diseases are to be excluded from instruction on the prevention and control of diseases and disorders. At the discretion of the local board, age‑appropriate instruction in reproductive health may be included.

(2) ~~Beginning with the 1988‑1989 school year, for~~ 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, and teen dating violence 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.

(3) ~~Beginning with the 1989‑90 school year, at~~ At least one time during the four years of grades nine through twelve, each student shall receive instruction in comprehensive health education, including at least seven hundred fifty minutes of reproductive health education ~~and~~, pregnancy prevention education, and teen dating violence education.

(4) The South Carolina Educational Television Commission shall work with the department in developing instructional programs and materials that may be available to the school districts. Films and other materials may be designed for the purpose of explaining bodily functions or the human reproductive process. These materials may not contain actual or simulated portrayals of sexual activities or sexual intercourse.

(5) The program of instruction provided for in this section may not include a discussion of alternate sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted diseases.

(6) In grades nine through twelve, students must also be given appropriate instruction that adoption is a positive alternative.

(B) Local school boards may use the instructional unit made available by the board pursuant to Section 59‑32‑20, or local boards may develop or select their own instructional materials addressing the subjects of reproductive health education, family life education, ~~and~~ pregnancy prevention education, and teen dating violence education. To assist in the selection of components and curriculum materials, each local school board shall appoint a thirteen‑member local advisory committee consisting of two parents, three clergy, two health professionals, two teachers, two students, one being the president of the student body of a high school, and two other persons not employed by the local school district.

(C) The time required for health instruction for students in kindergarten through eighth grade must not be reduced below the level required during the 1986‑87 school year. Health instruction for students in grades nine through twelve may be given either as part of an existing course or as a special course.

(D) No contraceptive device or contraceptive medication may be distributed in or on the school grounds of any public elementary or secondary school. No school district may contract with any contraceptive provider for their distribution in or on the school grounds. Except as to that instruction provided by this chapter relating to complications which may develop from all types of abortions, school districts may not offer programs, instruction, or activities including abortion counseling, information about abortion services, or assist in obtaining abortion, and materials containing this information must not be distributed in schools. Nothing in this section prevents school authorities from referring students to a physician for medical reasons after making reasonable efforts to notify the student’s parents or legal guardians or the appropriate court, if applicable.

(E) Any course or instruction in sexually transmitted diseases must be taught within the reproductive health, family life, or pregnancy prevention education components, or it must be presented as a separate component.

(F) Instruction in pregnancy prevention education must be presented separately to male and female students.

(G) Beginning with the 2015‑2016 school year, districts annually shall provide age‑appropriate instruction in sexual abuse and assault awareness and prevention to all students in four‑year‑old kindergarten, where offered, through twelfth grade. This instruction must be based on the units developed by the board, through the department, pursuant to Section 59‑32‑20(B).”

SECTION 5. Section 59-32-50 of the 1976 Code is amended to read:

“Section 59‑32‑50. (A) Pursuant to policies and guidelines adopted by the local school board, public school principals shall develop a method of notifying parents of students in the relevant grades of the content of the instructional materials concerning reproductive health, family life, pregnancy prevention, teen dating violence, and of their option to exempt their child from this instruction, and sexually transmitted diseases if instruction in the diseases is presented as a separate component. Notice must be provided sufficiently in advance of a student’s enrollment in courses using these instructional materials to allow parents and legal guardians the opportunity to preview the materials and exempt their children.

(B) A public school principal, upon receipt of a statement signed by a student’s parent or legal guardian stating that participation by the student in the health education program conflicts with the family’s beliefs, shall exempt that student from any portion or all of the units on reproductive health, family life, ~~and~~ pregnancy prevention, and teen dating violence where any conflicts occur. No student must be penalized as a result of an exemption. School districts shall use procedures to ensure that students exempted from the program by their parents or guardians are not embarrassed by the exemption.”

SECTION 6. Section 16-3-755 of the 1976 Code is amended to read:

“Section 16-3-755. (A) For purposes of this section:

(1) ‘Aggravated coercion’ means that the person affiliated with a public or private secondary school in an official capacity threatens to use force or violence of a high and aggravated nature to overcome the student, if the student reasonably believes that the person has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, under circumstances of aggravation, against the student.

(2) ‘Aggravated force’ means that the person affiliated with a public or private secondary school in an official capacity uses physical force or physical violence of a high and aggravated nature to overcome the student or includes the threat of the use of a deadly weapon.

(3) ‘Person affiliated with a public or private secondary school in an official capacity’ means an administrator, teacher, substitute teacher, teacher's assistant, student teacher, law enforcement officer, school bus driver, guidance counselor, or coach who is affiliated with a public or private secondary school but is not a student enrolled in the school.

(4) ‘Secondary school’ means either a junior high school or a high school.

(5) ‘Sexual battery’ means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

(6) ‘Student’ means a person who is enrolled in a school.

(B) If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is sixteen or seventeen years of age, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not less than a mandatory minimum of one year nor more than five years. No part of a mandatory minimum sentence required in this subsection may be suspended nor probation granted.

(C) ~~If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is eighteen years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for thirty days, or both.~~

~~(D)~~ If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not less than a mandatory minimum of one year nor more than ~~five~~ ten years. No part of a mandatory minimum sentence required in this subsection may be suspended nor probation granted.

(E) This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act.”

SECTION 7. The repeal or amendment by this act of any law, whether temporary, permanent, 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.

SECTION 8. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑