~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 19, 2017

**S. 169**

Introduced by Senators Shealy and McLeod

S. Printed 4/19/17--S. [SEC 4/20/17 10:56 AM]

Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 169) 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, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting therein the following:

/SECTION 1. Section 16-3-1750 is amended as follows:

“Section 16‑3‑1750. (A) Pursuant to this article, the magistrates court has jurisdiction over an action seeking a restraining order against a person engaged in harassment in the first or second degree or stalking.

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

(1) the defendant resides when the action commences;

(2) the harassment in the first or second degree or stalking occurred; or

(3) the plaintiff resides if the defendant is a nonresident of the State or cannot be found.

(C) A complaint and motion for a restraining order may be filed by any person, except that if the person is an unemancipated minor under the age of eighteen, the parent, legal guardian, or person who has legal custody of the minor shall file the complaint and motion, unless the court finds to require the minor’s parent, legal guardian, or person who has legal custody to file the complaint and motion would not be in the best interest of the minor.

(D) The complaint must:

(1) allege that the defendant is engaged in harassment in the first or second degree or stalking and must state the time, place, and manner of the acts complained of, and other facts and circumstances upon which relief is sought;

(2) be verified; and

(3) inform the defendant of his right to retain counsel to represent him at the hearing on the complaint.

~~(D)~~(E) The magistrates court must provide forms to facilitate the preparation and filing of a complaint and motion for a restraining order by a plaintiff not represented by counsel. The court must not charge a fee for filing a complaint and motion for a restraining order against a person engaged in harassment or stalking. However, the court shall assess a filing fee against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.

~~(E)~~(F) A restraining order remains in effect for a fixed period of time of not less than one year, as determined by the court on a case‑by‑case basis.

~~(F)~~(G) Notwithstanding another provision of law, a restraining order or a temporary restraining order issued pursuant to this article is enforceable throughout this State.”

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 physical, sexual, psychological, or emotional violence between persons eighteen years of age or younger within a dating relationship.”

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

“Section 59‑32‑20. (A) ~~Before August 1, 1988, the board, through the department, shall select or develop an instructional unit with~~ Upon the next cyclical review of the health standards, the board shall ensure that all standards include separate components addressing the subjects of reproductive health education~~,~~; family life education~~,~~; pregnancy prevention education~~,~~; ~~and~~ sexually transmitted diseases; sexual abuse and assault awareness and prevention, with separate units appropriate for each age level from four-year-old kindergarten through twelfth grade; 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~~ the board, through the department, shall make available information developed by other states upon request of a local school district. The board shall also make available to districts a list of instructional materials that meet state standards and include any subjects added after the most recent cyclical review. The local school boards shall continue to adopt or develop curriculum locally.”

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, and sexual abuse and assault awareness and prevention. 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, sexual abuse and assault awareness and prevention, 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, sexual abuse and assault awareness and prevention, and teen dating violence education.

(4) ~~The South Carolina Educational Television Commission shall work with the department in developing~~ The South Carolina Department of Education shall provide assistance to local districts, as needed, ensuring that instructional programs and materials ~~that may be available to the school districts~~ meet state standards. Films and other materials may be ~~designed~~ used 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.

(7) At least one time during the entire four years of grades nine through twelve, each student shall receive instruction in cardiopulmonary resuscitation (CPR), which must include, but not be limited to, hands‑only CPR and must include awareness in the use of an automated external defibrillator (AED). Each school district shall use a program that incorporates the instruction of the psychomotor skills necessary to perform CPR developed by the American Heart Association, the American Red Cross, or an instructional program that is nationally recognized and based on the most current national evidence‑based emergency cardiovascular care guidelines for CPR and awareness in the use of an AED. Local and statewide school districts shall coordinate with entities that have the experience and necessary equipment for the instruction of CPR and awareness in the use of AEDs; provided, however, that virtual schools may administer the instruction virtually and are exempt from any in‑person instructional requirements. A school district must adopt a policy providing a waiver for this requirement for a student absent on the day the instruction occurred, a student with a disability whose individualized education program indicates such student is unable to complete all or a portion of the hands‑only CPR requirement, or a student whose parent or guardian completes, in writing, a form approved by the school district opting out of hands‑only CPR instruction and AED awareness. The State Board of Education shall incorporate CPR training and AED awareness into the South Carolina Health and Safety Education Curriculum Standards and promulgate regulations to implement this section.

(B) Local school boards ~~may use the instructional unit made available by the board pursuant to Section 59‑32‑20, or local boards may~~ shall develop or select their own instructional ~~materials~~ units, curriculum, or both, addressing the subjects of reproductive health education, family life education, ~~and~~ pregnancy prevention education, sexual abuse and assault awareness and prevention, 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~~ prior 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, and 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. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2017**

**Updated for Additional Agency Response**

**State Expenditure**

This bill creates the offense of teen dating violence for certain conduct between persons eighteen years of age or younger. A person commits the offense when the victim, a current or former partner in a dating relationship, has reasonable cause to believe that he or she is in imminent danger of becoming the subject of teen dating violence, as defined by the bill, or presents sufficient evidence that the person threatened, attempted, or actually physically abused the victim. The bill provides for penalties pursuant to Section 16-25-20(B) of the Criminal Domestic Violence Act and enables victims to seek orders of protection or restraining orders under certain circumstances. Further, it prohibits violators of these provisions from participating in pretrial intervention programs. Penalties for conviction are in addition to penalties for any underlying offense and must be served consecutively to a sentence for an underlying offense. The bill also amends the Comprehensive Health Education Act to require the inclusion of teen dating violence education in the comprehensive health education curriculum.

In addition, the bill establishes a minimum mandatory sentence for the crime of sexual battery with a student. The minimum mandatory sentence is one year for a person affiliated with a public or private secondary school in an official capacity who is convicted of engaging in sexual battery with a sixteen or seventeen year old student without using aggravated coercion or aggravated force. The same mandatory minimum sentence is established for a person affiliated with public or private secondary school in an official capacity who has direct supervisory authority over a student who is eighteen years of age or older and is convicted of sexual battery of the student without using aggravated coercion or aggravated force. For the person with direct supervisory authority over an eighteen year old or older student, the maximum sentence is also increased from five to ten years. The maximum sentence for the person convicted of sexual battery of sixteen or seventeen year old student remains five years. The newly established minimum mandatory sentence for both offenses may not be suspended, and probation may not be granted. Further, the bill deletes a misdemeanor offense of sexual battery with a student who is eighteen years of age or older that carried a fine of not more than $500, or imprisonment for 30 days, or both.

**Commission on Indigent Defense.** As there is no data on how many charges will be brought against indigent persons for the offense of teen dating violence, the commission cannot estimate the increase in cases by persons represented by public defenders. Therefore, the expenditure impact of the bill on the general fund, other funds, and federal funds is undetermined.

**Commission on Prosecution Coordination.** As there is no data on how many charges will be brought by law enforcement for offenses of teen dating violence, the commission is unable to estimate the number of such cases that may be prosecuted. However, the commission expects solicitors to manage any increase in caseloads within current resources.

**Department of Corrections.** A 2013 national Youth Risk Survey conducted by the Centers for Disease Control and Prevention provides data on the prevalence of teen dating violence. A study of the results published in the May 2015 issue of *JAMA Pediatrics* found that among high school students, nearly 21% of female students and more than 10% of male students experienced some form of physical or sexual dating violence, or both, during the year before the survey. However, because this data does not correlate with the offense as established by this bill or the number of convictions that may result, the expenditure impact on the general fund, federal funds, and other funds is undetermined. Responses to an anonymous survey may not equate to reporting to law enforcement, the content of the survey questions and the bill’s definition of teen dating violence may not be the same, and actual convictions, sentences, and time served are variable, among other things. The department does indicate that the bill could result in an increase in the prison population.

The department indicates that the agency has not received any offenders convicted for sexual battery with a student during FY 2013-14, FY 2014-15 and FY 2015-16. Therefore, the Revenue and Fiscal Affairs Office expects the expenditure impact associated with the change in sentencing for the crime to be minimal. According to the department, the variable cost of an additional inmate is $2,474 a year.

**Department of Education.** This bill’s requirement to add a separate component on teen dating violence to the comprehensive health education curriculum is not expected to materially increase the administrative duties in developing and maintaining the current instructional unit on reproductive health, family life, pregnancy prevention, and sexually transmitted diseases. Therefore, this bill would not have an expenditure impact on the general fund, federal funds, or other funds of the department.

**Department of Juvenile Justice.**  The department indicates there is no data to determine the number of youths who may be admitted to the department’s facilities for teen dating violence, but the department expects to manage any increase in its daily population within current resources unless there is a noticeable increase in commitments.

**Judicial Department.** The bill creates a new felony offense of teen dating violence and establishes a new statute allowing the dating victim to seek orders of protection in family court or restraining orders in magistrate court under certain circumstances. There is no data available to determine the additional number of hearings or trials that may be held in the courts as a result of the bill. However, if a substantial number of additional hearings or trials are held, it could result in a backlog for the circuit courts and family courts. The department expects to manage any expenditure impact resulting from the bill within current resources.

**Local Expenditure**

This bill requires each local school board to implement instruction on teen dating violence as part of comprehensive health instruction in grades six through eight. In grades nine through twelve, teen violence education is added to the required 750 minutes of comprehensive health education currently mandated at least one time during the four years. Public school principals must notify parents of students of the content of the instructional materials concerning teen dating violence as currently required for reproductive health, family life, pregnancy prevention, and sexually transmitted diseases education. Principals may exempt students from units on teen dating violence in the same manner as students are currently exempted from instruction about reproductive health, family life, pregnancy prevention, and sexually transmitted diseases. This bill’s requirement to implement instruction on teen dating violence in grades six through twelve will not materially increase the teaching duties for the current instructional unit on reproductive health, family life, pregnancy prevention, and sexually transmitted diseases. Therefore, this bill is not expected to have an expenditure impact on the local school districts.

The expenditure impact associated with any increase in magistrate court hearings on the issuance of restraining orders depends upon the number of such hearings. Because no data exists to estimate the number, the expenditure impact on local government for this part of the bill is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**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.

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