~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

May 3, 2017

**S. 169**

Introduced by Senators Shealy and McLeod

S. Printed 5/3/17--S.

Read the first time January 10, 2017.

**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.

Amend Title To Conform

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

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.

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