**A** **BILL**

TO AMEND SECTION 16-5-50 OF THE 1976 CODE, RELATING TO THE PENALTY FOR HINDERING A LAW ENFORCEMENT OFFICER OR RESCUING A PRISONER, TO PROVIDE THAT A PERSON WHO HINDERS A LAW ENFORCEMENT OFFICER IS GUILTY OF A MISDEMEANOR, AND TO PROVIDE THAT AN OFFICER SHALL NOT INTERFERE WITH A PERSON PHOTOGRAPHING OR RECORDING AN OFFICER IN CERTAIN CIRCUMSTANCES; AND TO AMEND SECTION 16-9-320 OF THE 1976 CODE, RELATING TO OPPOSING, RESISTING, OR ASSAULTING A LAW ENFORCEMENT OFFICER SERVING PROCESS, TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 16‑5‑50 of the 1976 Code is amended to read:

“Section 16‑5‑50. (A)(1) ~~Any~~ A person ~~who~~ shall not:

(a) hinder, prevent, or obstruct ~~any~~ a law enforcement officer or other person charged with the execution of ~~any~~ a warrant or other process issued ~~under the provisions of~~ pursuant to this chapter in arresting ~~any~~ a person for whose apprehension such warrant or ~~other~~ process may have been issued~~,~~;

(b) rescue or attempt to rescue such person from the custody of the officer or person ~~or persons~~ lawfully assisting ~~him~~ the officer~~, as aforesaid,~~;

(c) aid, abet, or assist ~~any~~ a person so arrested, ~~as aforesaid,~~ directly or indirectly, to escape from the custody of the officer or person ~~or persons~~ assisting ~~him~~ the officer~~, as aforesaid,~~; or

(d) harbor or conceal ~~any~~ a person for whose arrest a warrant or other process ~~shall have~~ has been issued, so as to prevent ~~his~~ the person’s discovery and arrest, after notice or knowledge of the ~~fact of the~~ issuing of such warrant or ~~other~~ process~~, shall, on conviction for any such offense, be subject to a fine of~~.

(2) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars, ~~or imprisonment~~ imprisoned for not more than three years, or both~~, at the discretion of the court having jurisdiction~~.

(B)(1) If a person is exercising his right to photograph or record a law enforcement officer performing the officer’s duties while the officer is in a public place or public view, or the person is in a private place that the person has a right to occupy, then an officer shall not:

(a) intentionally hinder, prevent, or obstruct the person from taking a photograph or making a recording;

(b) detain, arrest, threaten, intimidate, or otherwise harass the person;

(c) search or seize the photograph, recording, or device used to create the photograph or recording without the person’s permission or a warrant; or

(d) damage or destroy the photograph, recording, or device used to create the photograph or recording.

(2) This subsection does not apply to a person if an officer is in the act of placing the person under arrest or if the person is under arrest.

(3) If an officer violates this subsection, then the person has a civil cause of action against the officer and the officer’s law enforcement agency.”

SECTION 2. Section 16‑9‑320 of the 1976 Code is amended to read:

“Section 16‑9‑320. (A)(1) It is unlawful for a person knowingly and wilfully to oppose or resist a law enforcement officer in serving, executing, or attempting to serve or execute a legal writ or process or to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not.

(2) A person who violates ~~the provisions of~~ this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than one year, or both.

(B)(1) It is unlawful for a person to knowingly and wilfully assault, beat, or wound a law enforcement officer engaged in serving, executing, or attempting to serve or execute a legal writ or process or to assault, beat, or wound an officer when the person is resisting an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not.

(2) A person who violates ~~the provisions of~~ this subsection is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not more than ten years, or both.

(C)(1) If a person is exercising his right to photograph or record a law enforcement officer performing the officer’s duties while the officer is in a public place or public view, or the person is in a private place that the person has a right to occupy, then an officer shall not:

(a) intentionally hinder, prevent, or obstruct the person from taking a photograph or making a recording;

(b) detain, arrest, threaten, intimidate, or otherwise harass the person;

(c) search or seize the photograph, recording, or device used to create the photograph or recording without the person’s permission or a warrant; or

(d) damage or destroy the photograph, recording, or device used to create the photograph or recording.

(2) This subsection does not apply to a person if an officer is in the act of placing the person under arrest or if the person is under arrest.

(3) If an officer violates this subsection, then the person has a civil cause of action against the officer and the officer’s law enforcement agency.”

SECTION 3. This act takes effect upon approval by the Governor.

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