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## House Floor Actions

**(May 16 - 17, 2023)**

On the afternoon of Thursday, May 11th, the House adjourned *sine die*; subsequently, on May 12th, by Executive Order No. 2023-13, the Governor called the General Assembly into extra session beginning at 12:00 noon on Tuesday, May 16, 2023.

The House has amended and returned to the Senate, **S. 474** the **"Fetal Heartbeat and Protection from Abortion Act."**

Among other things, it would declare that life begins with a fetus’s first detectable heartbeat. It would prohibit anyone from knowingly providing drugs to a pregnant female to cause an abortion, except in emergency medical situations. These situations are defined as conditions that complicate a woman’s pregnancy requiring a procedure to prevent death or irreversible impairment of one of her major bodily functions. These conditions have to be determined by a physician. Records of these medical findings must be maintained for seven years. Entities failing to maintain these records would face fines of up to $50,000 for each incident of noncompliance.

However, it would not prevent a licensed physician, who fills out appropriate paperwork, from performing an abortion in cases where a pregnancy results from incidents of rape or incest. These pregnant females would have to be carrying a fetus with a gestational age of less than 12 weeks. As required under existing state laws, physicians would continue to be required to obtain and preserve a DNA sample in these cases by preparing a SLED-approved sexual assault protocol kit. Doctors performing these procedures would also have to inform a pregnant woman they will be, and then, report these crimes to the county sheriff where the procedures are performed. These reports would have to be made within 24 hours of procedure completion. These doctors would also have to note they made these reports on the pregnant woman’s medical chart, and ensure they provide all the information set out in this bill in their notes.

A procedure also would be permitted when a fatal fetal anomaly is present. Under this proposal, these anomalies are defined as a fetus with a profound and irremediable congenital or chromosomal anomaly incompatible with sustaining life after birth. A procedure would also be permittable when it is needed to prevent the death of a pregnant woman, or it would abate the substantial risk to any pregnant woman who has one or more of the physical conditions listed in this bill that put her in harm's way to give birth. Any physical impairment could not be a psychological or emotional one. Nevertheless, before these procedures are undertaken, reasonable efforts must be taken to save the fetus's life, without endangering the life or health of the mother. Physicians who will perform a procedure, or a certified sonographer, would have to perform an ultrasound on the pregnant woman and offer her an opportunity to view it live. In addition, this physician also would have to provide an opportunity to listen to the heartbeat of the fetus.

No procedure could be performed without voluntary, written, and witnessed informed consent documentation being completed by the pregnant woman, or her court-appointed guardian.

Contraceptives, *in vitro* fertilizations [IVFs], and other assistive reproduction technologies are not subject to the prohibitions in this bill, so long as they are not used to terminate the pregnancy of any woman known to be pregnant. Illegally providing these drugs to cause abortions in these instances would carry jail time from two to five years, and/or fines of up to $5,000.

Violators of any prohibitions, including anyone intimidating a pregnant woman into having an abortion, could be prosecuted for committing a felony, and would face up to two years in prison, and/or fines of up to $10,000. Violators also would face civil liability for statutory, actual, and punitive damages as well as restraining orders initiated by a circuit solicitor or the South Carolina Attorney General, the pregnant woman, or the pregnant woman's parents if she has not yet reached the age of 18. If damages are awarded, then these parties can recover their attorney fees and costs, so long as any successful plaintiff committed no criminal acts relating to the subject of this civil suit.

Medical professionals also face disciplinary action, including potential revocation of their licenses, ethics violations, and potentially having to pay the costs of any investigations, fines, or other professional disciplinary actions should they violate any restrictions listed in this bill.

Pregnant women are shielded from being held criminally or civilly liable for seeking a procedure in compliance with this proposed legislation’s parameters.

In addition, the biological father would be responsible for paying 50 percent of the birth mother's pregnancy expenses, including copays, from the time of conception, in addition to having to pay child support, which would be calculated from the date of conception. Further, if the pregnancy was the result of rape or incest, then the biological father would also be responsible for 100 percent of the expenses incurred by the mother for mental health counseling as a result of that incident of rape or incest.

No state agency or political subdivision may buy, or accept donations of, fetal tissue from any of these procedures, and no public funds could be used by, or sent to, the Planned Parenthood organization. No state-appropriated funds to the State Health Insurance Plan can reimburse abortion medicines or procedures expenses unless they were permitted medicines or procedures performed under the scope of this pending legislation. Additionally, health care insurance could cover contraceptives, unless a religious belief exception is present.

The House concurred in Senate amendments to, and the Governor on May 18th signed, **H. 3583**, **R. 82,** now to be known as **“Gavin’s Law,”** legislation to abate **Sexual Extortion** in South Carolina, which has been enrolled for ratification. This offense typically involves someone obtaining nude, or other private, images of someone else via text messaging, or ‘sexting.’ Once the recipients have these images, they then blackmail the senders by threatening to release, exhibit, or otherwise distribute these private images on the Internet, with often fatal outcomes.

As amended, this legislation also includes as an element of this proposed new criminal offense any threats to obtain additional private images or anything else of value from victims of this crime. It proposes abating these schemes by adding sexual extortion and aggravated sexual extortion definitions to the criminal code and proposing penalties ranging from five years to twenty years in jail for violations, and aggravated violations, of this proposed new crime.

Local school districts are required to collaborate with the Attorney General’s Office and the State Law Enforcement Division to educate students, parents, guardians, citizens, and school personnel about Gavin’s Law. Annual reports will be provided to the General Assembly and the governor by the State Department of Education.

The House non-concurred in Senate amendments to **H. 3728**. H. 3728 would enact the comprehensive "**South Carolina Transparency and Integrity in Education Act**.” The House version of H. 3728, states that ideological and viewpoint biases should not be presented as fact to students who receive instruction in public school, that all students should learn in a positive learning environment where they are made to feel welcomed, supported, respected, and free from discrimination; that schools are to establish and foster a positive learning environment, teach critical thinking skills, and prepare students to be college and career ready. The bill asserts that all stakeholders have a shared responsibility for student learning; that parents and students can raise awareness and have their concerns about objectionable material heard and addressed whenever such a topic is discussed; that all entities involved are to work to remove ideological biases from the pre-Kindergarten to grade twelve schools; and, that schools are to be a model for comprehensive, fair, and factual instruction.

The bill enumerates a list of prohibited concepts that may not be included or promoted in a course of instruction. Instructional material and professional development should not promote that one race, sex, ethnicity, religion, color, or national origin is superior, inherently privileged, or determines moral character. Moreover, these traits should not cause the assignment of fault or bias to an individual or group. A student, administrator, teacher, staff member, other school or district employee, or volunteer shall not be required to attend any instruction, training, or presentation that has the goal or purpose of studying, exploring, or informing attendees about gender roles or stereotypes, gender identity, gender expression, sexual orientation, or romantic or sexual relationships. No student shall attend any instruction, training, or presentation including these topics unless the school has received written permission from the student's parent.

Library and media center material, both printed and electronically accessible, must be age-appropriate and grade-appropriate. Determination of the appropriateness of materials should be guided by criteria established by the State Board of Education.

Districts are clearly allowed to teach state academic standards -- including concepts such as the history of an ethnic group, the fact-based discussion of controversial aspects of history, and the instruction of the historical oppression of a group of people based on race, sex, ethnicity, class, nationality, religion, or geographic region, including the fact-based and historically accurate discussion of the history of slavery. “Current events” is added to the list of topics that must be taught in a fact-based manner. The state Department of Education must develop model lesson plans accessible to the districts.

The bill provides procedures for public review of public school curricula and instructional materials. The State Board shall hold a public hearing before adopting any textbook or instructional material for use in the schools. A school may not accept teaching materials or technology which contains an application, link, or other access to pornographic (defined) or other prohibited materials. A school district that receives such materials must receive disciplinary action as stated in the complaint process.

Beginning with the 2024-2025 school year, each LEA shall prominently post information regarding curriculum and instructional materials on the school district website at least seven days prior to the start of classes. Information must indicate the materials used by school, grade or course, and subject matter, and must include: a listing of the approved textbook for every course offered in the district; a link to statewide academic standards; relevant district policies concerning curriculum development and academic transparency; a process for which parents may review and contest instructional materials and library and media center materials being used; and a process by which parents may withdraw their student from any specific instruction or presentation that that the parent, in the parent's sole discretion, objects to their student receiving. If curriculum or instructional material are added after the start of classes, they must be posted within three days. For any child who does not attend any instruction or presentation pursuant to this law, the school shall provide to the student alternative educational instruction that furthers the completion of any grade level or graduation requirements and does not include any of the objectionable content; and shall not impose an academic or other penalty upon the student.

A latter section of the bill is intended foster parental involvement and shall not be construed as a mandate on parents that could subject them to retaliation or sanctions from teachers, schools, LEAs, or the State Board of Education. The bill asserts parental expectations and parental involvement in their children's education - that parents are expected to be the primary source for the education of their children - the “primary source of their student's education regarding learning morals, ethics, and civic responsibility.”

Provisions are made for complaints and feedback (with means provided for addressing violations). Complaints must be confidential from the time they are filed and remain so until a decision is rendered and may not be shared with a third party. Schools are to adopt a policy for procedures used to report and investigate an alleged violation and the resolution of violations. The legislation provides a comprehensive and extensive system of notices, investigations, due process, appeals, and reports, including a statement by the complainant verifying that he has made a good faith effort to communicate with the individual alleged to have included or promoted the prohibited concept and resolve the matter. The bill requires that a complaint must have a statement verifying that the complainant "has made a good faith effort to communicate with the individual alleged to have included or promoted the prohibited concept.”

If a complaint cannot be resolved locally, an appeal can be made to the State Board for a final determination. The department may withhold funds from the district if it fails to adhere to a corrective action plan. In addition to district losing funds, the committee amendment also calls for the educator to have their certification suspended or revoked if they fail to abide by the plan. A further amendment allows for parents to bring a suit for violations. Declaratory and injunctive relief, along with attorney's fees and costs, are recoverable.

The House also concurred in Senate amendments to **H. 3890,** legislation proposed to facilitate **Youthful Offender Driving Under Suspension Conviction Expungements.** Youthful offenders convicted of driving under suspension would be able to expunge these convictions after they meet specified prerequisites. These include having no other in-state or out-of-state convictions, other than one for driving under suspension or, prior to May 17, 2018, a conviction for disturbing schools, during their service of a youthful offender sentence including probation and parole or during the five‑year period following completion of their youthful offender sentence, also including probation and parole time.

The Senate concurred in House amendments to **S. 36, R. 64** proposed legislation expanding the scope of using **interlock ignition devices** in motor vehicles for minors whose licenses have been suspended for having a measurable amount of alcohol in their systems, for drivers issued a temporary alcohol license, or for habitual offenders seeking reinstatement of their drivers’ licenses. It has been enrolled for ratification. Anyone issued a temporary alcohol license would have to install these devices in the motor vehicle they will drive using that license. However, anyone registering an alcohol concentration of 0.00 one hundredths of one percent could not be required to install a device. In cases where the license suspensions are contested, these devices could not be required to be installed until the suspension is upheld after a hearing has been conducted. If the suspension is not upheld, drivers must be reimbursed the fees they previously paid by the Department of Motor Vehicles.

The Senate also concurred in House amendments to **S. 252, R. 65** legislation allowing **judges and law enforcement officers and officials** to file an appropriate form with supporting documents and request their **personal information**, including home addresses and cell phone numbers be kept **confidentially** in all state records. Once enacted, this proposed legislation would become effective July 1, 2024.

The House concurred in Senate amendments to **H. 3209**, **R. 78 extending expiration dates of permits** which has been enrolled for ratification. These permits include development approvals for providing water or wastewater removal services, air quality permits, those issued by the Office of Ocean and Coastal Resource Management, Department of Health and Environmental Control, the State, other agencies, or subdivisions of South Carolina that were issued between January 1, 2020 and December 31, 2023, and set to expire, to remain in effect for the length of time originally set out in them. Nothing in this Joint Resolution affects any development agreements; federal agency actions, other federal entities, or federal laws applicable to permits; can be used for shortening the effective dates of approvals; is to be interpreted to prohibit extensions from being granted; blunts the effect of any administrative consent orders; prevents any agency or entity from lawfully modifying or revoking any permits it has issued; prevents any federal lawful actions from being taken; affects certificates of need, or applies to any coastal island permits issued by SC DHEC.

**H. 3340 a**dds anyone with an **autism spectrum disorder or other developmental disability diagnoses** to the list of people eligible for inclusion in the State Law Enforcement Division’s **Endangered Person Notification System,** has been signed by the Governor.

The House also nonconcurred in Senate amendments to **S. 330** a bill covering **maliciously damaging electric and natural gas systems infrastructure.**

The House concurred in Senate amendments to **H. 4049**, legislation authorizing **remote shareholders meetings**, and enrolled the bill for ratification. The legislation revises requirements for holding meetings in provisions governing corporations, partnerships, and associations along with meeting provisions in the South Carolina Nonprofit Corporation Act to allow for participation through remote communication instead of in-person attendance.

The House approved and sent the Senate **H. 3811**, a bill providing for an **Industry Partnership Fund tax credit increase**. The legislationrevises the tax credit established for contributions to the Industry Partnership Fund associated with the South Carolina Research Authority (SCRA) by increasing the aggregate credit from nine million to twelve million dollars for tax years after 2022.

The House approved and sent the Senate **H. 3425**, a bill **facilitating retirees in state pension systems returning to covered employment** without being subject to earnings limitations. The legislation establishes conditions that allow earnings limitations not to apply when a retiree in the South Carolina Police Officers Retirement System returns to covered employment in a critical needs law enforcement position as determined by the Law Enforcement Training Council. Additionally, the bill removes the earnings limitation for a retiree of South Carolina Retirement System if the employee is separated from covered employment for at least twelve months before returning to covered employment.

The House gave second reading approval to **H. 4486**, a bill providing authority for the Department of Health and Environmental Control to create a **pilot program that allows septic tank installers to conduct septic tank field evaluation tests** for the department. To take part in this pilot program conducted in designated areas of the state, a septic tank installer must register with and be granted written approval by DHEC, hold a valid license, and be in good standing. The written approval records must be made available upon request to those for whom the work is being completed.

The House concurred with Senate amendments and enrolled for ratification **H. 3433**, legislation that requires the Department of Natural Resources to provide notice (by mail) of the **suspension of saltwater privileges or hunting and fishing privileges**. The giving of notice by mail is complete 20 days after the deposit of the notice and ends the same day the following year. The bill removes the mail return receipt request requirement. As a result, the Department

must certify that the notice has been sent as required and is presumptive proof that the requirements as to notice of suspension have been met even if the notice has not been received by the addressee. The person shall return the license and any tags in the person’s name to the department no later than 10 days following the effective date of the suspension. A person whose privileges have been suspended may appeal the decision of the Department under the Administrative Procedures Act.

The House gave third reading and sent to the Senate **S. 343**, a bill that amends the definition of a **crisis stabilization unit facility** to include all short-term residential stabilization and intensive crisis services. The bill removes the requirement that they be operated by or in partnership with the Department of Mental Health. Currently, the facility serves ages 18 and older, the bill expands the services to serve ages five and older.

The House gave third reading and sent to the Senate **S. 397**, a bill that transfers regulatory authority of **athletic trainers** from the Department of Health and Environmental Control (DHEC) to the Board of Medical Examiners, which is under the Department of Labor, Licensing and Regulation (LLR). In an effort to strengthen athlete training services, the bill creates licensure for athletic trainers. "Athletic trainer” means an allied health professional with specific qualifications who provide services under the direction of or in collaboration with a licensed physician. Services provided by athletic trainers may include the prevention, identification, assessment, treatment, or rehabilitation of injuries and illnesses under the direction of a licensed physician. In carrying out these functions, the athletic trainer is authorized to use therapeutic interventions including, but not limited to, heat, light, sound, cold, electricity, or mechanical devices related to said functions. In addition, an athletic skills trainer may not act individually or on behalf of anyone or any entity to recruit, unduly influence, entice, pressure, or use direct or indirect communications that would cause a student-athlete to transfer to the sports team of another school.

The bill also creates an Athletic Trainers Advisory Committee consisting of nine members appointed by the Board of Medical Examiners. Two members must be physicians who are licensed in South Carolina, five members must be licensed athletic trainers, and two members must be from the general public who are not certified or licensed in any healthcare field and are not connected in any way to athletic trainers. The Board of Medical Examiners, with the advice of the Athletic Trainers Advisory Committee, must develop standards and promulgate regulations to implement the provisions. The Board of Medical Examiners may levy fees in an amount sufficient to administer the requirements.

The House approved the committee amendment, gave third reading, and sent to the Senate **S. 407**. In an effort to save lives, the bill outlines that prescribers must offer **opioid antidotes** (such as **Narcan**), in a manner that is consistent with the existing standard of care and the FDA. In addition, the bill further outlines that a prescriber is not subject to professional disciplinary actions including, but not limited to, disciplinary actions initiated by any board or licensing agency arising from the prescriber's compliance with the provisions. This provision does not apply to patients who are receiving care for cancer or who are in palliative care.

The House approved and sent the Senate **H. 3880**. This bill provides that no admissions taxes may be charged or collected on annual or **monthly dues paid to a golf club**.

## Introductions

**Agriculture, Natural Resources and Environment Affairs**

[**S. 712**](https://www.scstatehouse.gov/billsearch.php?billnumbers=712&session=125&summary=B) **North Atlantic Right Whales Sen. Goldfinch**

[S. 712](https://www.scstatehouse.gov/billsearch.php?billnumbers=712&session=125&summary=B) is concurrent resolution to encourage the South Carolina congressional delegation to assist in finding reasonable solutions to protect North Atlantic right whales and South Carolina's coastal culture and economy.

**Education and Public Works**

**H. 4485 Ten Commandments Rep. Beach**

H. 4485 provides each public elementary, middle school, or secondary school are to display in a conspicuous place in each classroom a poster or framed copy of the Ten Commandments.

**Judiciary**

**H. 4487 Reconstituting the Judicial Merit Selection Commission Rep. Ott**

This proposal seeks to reduce the number of members of the Judicial Merit Selection Commission from ten to seven. The Governor would appoint two members, and the remaining five would be former or retired judges nominated by various groups including the SC Bar and SC Sheriff’s Association, and then be appointed to serve. The Governor would have authority to remove any member of this newly reconstituted commission.

**H. 4488 Nixing Healthcare Noncompete Restrictions Rep. G. M. Smith**

All licensed healthcare facilities could no longer create or enforce any noncompete agreement against any physician no longer in its employ should this bill become law.

Thursday, September 14, 2023

The House Research Office uses the 17th edition of the Chicago Manual of Style, with practical modifications [i.e., regarding numbers].

These summaries are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) nor the House of Representatives. They are for the use of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent. These Legislative Updates are on the South Carolina General Assembly home page (<http://www.scstatehouse.gov>). Go to Publications, then Legislative Updates. This lists all the Legislative Updates by date as a Word document and a document with hypertext links to the bills. Also available under Publications is a Bill Summary Index to the Legislative Updates (bills are listed in numeric order and provide the different summary versions at the various stages and dates in the process).