**South Carolina General Assembly**

118th Session, 2009-2010

**A265, R339, S107**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Ryberg, Bryant, Massey, Peeler, L. Martin and Alexander

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Introduced in the Senate on January 13, 2009

Introduced in the House on March 31, 2009

Last Amended on June 16, 2010

Passed by the General Assembly on June 16, 2010

Governor's Action: June 24, 2010, Signed

Summary: Criminal sexual conduct

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑120

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑120

1/23/2009 Senate Referred to Subcommittee: Hutto (ch), Rose, Shoopman

3/11/2009 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\03-11-09.docx)‑8

3/24/2009 Senate Special order, set for March 24, 2009 [SJ](file:///h:\SJ%20Archive\2009\03-24-09.docx)‑37

3/25/2009 Senate Committee Amendment Amended and Adopted [SJ](file:///h:\SJ%20Archive\2009\03-25-09.docx)‑97

3/25/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\03-25-09.docx)‑97

3/25/2009 Senate Read second time [SJ](file:///h:\SJ%20Archive\2009\03-25-09.docx)‑97

3/25/2009 Senate Unanimous consent for third reading on next legislative day [SJ](file:///h:\SJ%20Archive\2009\03-25-09.docx)‑97

3/26/2009 Senate Read third time and sent to House [SJ](file:///h:\SJ%20Archive\2009\03-26-09.docx)‑27

3/31/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\03-31-09.docx)‑24

3/31/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\03-31-09.docx)‑24

5/20/2010 House Committee report: Favorable with amendment **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\05-20-10.docx)‑2

5/25/2010 House Amended [HJ](file:///h:\HJ%20Archive\2010\05-25-10.docx)‑44

5/25/2010 House Read second time [HJ](file:///h:\HJ%20Archive\2010\05-25-10.docx)‑44

5/26/2010 House Debate adjourned until Thursday, May 27, 2010 [HJ](file:///h:\HJ%20Archive\2010\05-26-10.docx)‑16

5/27/2010 House Read third time and returned to Senate with amendments [HJ](file:///h:\HJ%20Archive\2010\05-27-10.docx)‑32

6/1/2010 Senate House amendment amended [SJ](file:///h:\SJ%20Archive\2010\06-01-10.docx)‑155

6/1/2010 Senate Returned to House with amendments [SJ](file:///h:\SJ%20Archive\2010\06-01-10.docx)‑155

6/3/2010 House Non‑concurrence in Senate amendment [HJ](file:///h:\HJ%20Archive\2010\06-03-10.docx)‑77

6/3/2010 House Roll call Yeas‑1 Nays‑86 [HJ](file:///h:\HJ%20Archive\2010\06-03-10.docx)‑77

6/15/2010 Senate Senate insists upon amendment and conference committee appointed Hutto, Rose, and Shoopman [SJ](file:///h:\SJ%20Archive\2010\06-15-10.docx)‑67

6/15/2010 House Conference committee appointed Reps. TR Young, Cole, and Jennings [HJ](file:///h:\HJ%20Archive\2010\06-15-10.docx)‑94

6/16/2010 Senate Conference report received and adopted [SJ](file:///h:\SJ%20Archive\2010\06-16-10.docx)‑174

6/16/2010 House Conference report received and adopted [HJ](file:///h:\HJ%20Archive\2010\06-16-10.docx)‑371

6/16/2010 House Roll call Yeas‑107 Nays‑0 [HJ](file:///h:\HJ%20Archive\2010\06-16-10.docx)‑371

6/16/2010 House Ordered enrolled for ratification [HJ](file:///h:\HJ%20Archive\2010\06-16-10.docx)‑375

6/21/2010 Ratified R 339

6/24/2010 Signed By Governor

7/1/2010 Effective date 06/24/10

7/8/2010 Act No. 265

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\107_20081210.docx)

[3/11/2009](file:///p:\pprever\2009-10\107_20090311.docx)

[3/25/2009](file:///p:\pprever\2009-10\107_20090325.docx)

[5/20/2010](file:///p:\pprever\2009-10\107_20100520.docx)

[5/25/2010](file:///p:\pprever\2009-10\107_20100525.docx)

[6/1/2010](file:///p:\pprever\2009-10\107_20100601.docx)

[6/16/2010](file:///p:\pprever\2009-10\107_20100616.docx)

(A265, R339, S107)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑3‑755 SO AS TO DEFINE NECESSARY TERMS, CREATE LEVELS OF SEXUAL BATTERY WITH A STUDENT OFFENSES, PROVIDE PENALTIES, AND PROVIDE AN EXCEPTION FOR PERSONS LAWFULLY MARRIED.**

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

**Sexual battery with a student**

SECTION 1. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“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 more than five years.

(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 more than five years.

(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.”

**Savings clause**

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or 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.

**Severability clause**

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 21st day of June, 2010.

Approved the 24th day of June, 2010.

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