~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 24, 2010

**H. 4212**

Introduced by Reps. Jennings, Clemmons, Harrison, Kirsh, G.M. Smith and Wylie

S. Printed 3/24/10--H.

Read the first time January 12, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4212) to amend Section 16‑17‑420, Code of Laws of South Carolina, 1976, relating to the offense of disturbing schools, so as to provide that violations, 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:

/ SECTION 1. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It ~~shall be~~ is unlawful~~:~~

~~(1)~~ ~~For any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or~~

~~(2)~~ ~~For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge~~ for a person who is not a student to wilfully interfere with, disrupt, or disturb the normal operations of a school or college in this State by:

(1) entering upon school or college grounds or property without the permission of the principal or president in charge;

(2) loitering upon or about school or college grounds or property, after notice is given to vacate the grounds or property and after having reasonable opportunity to vacate;

(3) initiating a physical assault on, or fighting with, another person on school or college grounds or property;

(4) being loud or boisterous on school or college grounds or property after instruction by school or college personnel to refrain from the conduct;

(5) threatening physical harm to a student or school or college employee while on school or college grounds or property; or

(6) threatening the use of deadly force on school or college property or involving school or college grounds or property when the person has the present ability, or is reasonably believed to have the present ability, to carry out the threat.

For the purposes of this subsection, ‘person who is not a student’ means a person who is not enrolled in, or who is suspended or expelled from, the school or college that the person interferes with, disrupts, or disturbs at the time the interference, disruption, or disturbance occurs.

(B) ~~Any~~ A person ~~violating any of the provisions~~ who violates a provision of this section ~~shall be~~ is guilty of a misdemeanor and, ~~on~~ upon conviction ~~thereof~~, ~~shall pay a fine of~~ must be fined not less than one hundred dollars nor more than ~~one~~ two thousand dollars or ~~be~~ imprisoned ~~in the county jail for~~ not less than ~~thirty~~ ninety days nor more than ~~ninety days~~ one year.

(C) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, a violation of the provisions of this section must be tried exclusively in summary court, unless the juvenile is under the jurisdiction of the family court.”

SECTION 2. Section 63‑19‑1020 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑19‑1020. (A) The parent or custodian of a child, an official of a child welfare board, a public official charged by law with the care of the poor, the recognized agents of an agency, association, society, or institution, a person having knowledge or information of a nature which convinces the person that a child is delinquent or that a child, by reason of his own acts in accordance with this chapter, is subject to the jurisdiction of the court, any person who has suffered injury through the delinquency of a child, or an officer having an arrested child in charge, may institute a proceeding respecting the child.

(B) However, prior to the Department of Juvenile Justice accepting a referral for the status offense of incorrigibility or the filing of a petition against a child for incorrigibility, the party seeking to institute a proceeding against a child for incorrigibility shall provide documentation indicating that family counseling involving the parent, guardian, or custodian and the child previously was sought in an attempt to address the incorrigible behavior of the child. This family counseling may be obtained from a variety of community resources including, but not limited to, family or individual counseling with a licensed therapist, counselor, or clergy member; parent improvement classes; or other family therapy services that evidence a previous reasonable effort by the parent, guardian, or custodian to resolve the challenges confronting the family unit. If no prior assistance was sought, the department shall refer the parent or guardian to assistance that is available locally in their home community or shall provide this assistance to the family.”

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

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 16‑17‑420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFENSE OF DISTURBING SCHOOLS, SO AS TO PROVIDE THAT VIOLATIONS OF THE STATUTE MUST BE TRIED IN SUMMARY COURT.

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

SECTION 1. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It ~~shall be~~ is unlawful for a person:

(1) ~~For any person~~ wilfully or unnecessarily to:

(a) ~~to~~ interfere with or to disturb in any way or in any place the students or teachers of ~~any~~ a school or college in this State~~,~~ ;

(b) ~~to~~ loiter about ~~such~~ a school or college premises; or

(c) ~~to~~ act in an obnoxious manner ~~thereon~~ on a school or college premises; or

(2) ~~For any person~~ to ~~(a)~~ enter upon ~~any such~~ a school or college premises or ~~(b)~~ loiter around the premises, except on business, without the permission of the principal or president in charge.

(B) ~~Any~~ A person ~~violating any of~~ who violates the provisions of this section ~~shall be~~ is guilty of a misdemeanor and, ~~on~~ upon conviction ~~thereof~~, ~~shall pay a fine of~~ must be fined not less than one hundred dollars nor more than one thousand dollars or ~~be~~ imprisoned ~~in the county jail for~~ not less than thirty days nor more than ninety days.

(C) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, a violation of the provisions of this section must be tried exclusively in summary court.”

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.

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

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