**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “DRIVE‑BY SHOOTINGS ACCOUNTABILITY AND PROTECTION ACT” BY ADDING SECTION 16‑3‑624 SO AS TO CREATE THE OFFENSE OF COMMITTING A DRIVE‑BY SHOOTING, AND TO PROVIDE A PENALTY; AND TO AMEND SECTION 16‑3‑20, AS AMENDED, RELATING TO THE PUNISHMENT FOR MURDER, SO AS TO INCLUDE AS A SEPARATE STATUTORY AGGRAVATING CIRCUMSTANCE WHICH MAY BE CONSIDERED IN THE DETERMINATION OF WHETHER THE DEATH PENALTY MAY BE IMPOSED, A MURDER COMMITTED DURING THE COMMISSION OF A DRIVE‑BY SHOOTING.

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

SECTION 1. This act may be cited as the “Drive‑By Shootings Accountability and Protection Act”.

SECTION 2. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑624. (A) For the purposes of this section, the term ‘firearm’ means a weapon which is designed to or readily may be converted to expel a projectile by the action of an explosive or the frame or receiver of that weapon.

(B) A person who recklessly discharges a firearm in a manner which creates a substantial risk of death or great bodily injury to another person and the discharge of the firearm is from a motor vehicle, as defined in Section 38‑77‑30, or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge of the firearm is guilty of the felony offense of committing a drive‑by shooting and, upon conviction, must be fined not more than ten thousand dollars and imprisoned for a mandatory minimum term of twenty‑five years to life. No part of the mandatory minimum twenty‑five years may be suspended nor probation granted.”

SECTION 3. Section 16‑3‑20(C)(a)(1) of the 1976 Code, as last amended by Act 101 of 2007, is further amended to read:

“(1) The murder was committed while in the commission of the following crimes or acts:

(a) criminal sexual conduct in any degree;

(b) kidnapping;

(c) burglary in any degree;

(d) robbery while armed with a deadly weapon;

(e) larceny with use of a deadly weapon;

(f) killing by poison;

(g) drug trafficking as defined in Section 44‑53‑370(e), 44‑53‑375(B), 44‑53‑440, or 44‑53‑445;

(h) physical torture;

(i) dismemberment of a person; ~~or~~

(j) arson in the first degree as defined in Section 16‑11‑110(A); or

(k) committing a drive‑by shooting as defined in Section 16‑3‑624.”

SECTION 4. 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 5. This act takes effect upon approval by the Governor.

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