**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3207**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Cobb‑Hunter and H.B. Brown

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Introduced in the House on January 11, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Criminal domestic violence

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/14/2010 House Prefiled

12/14/2010 House Referred to Committee on **Judiciary**

1/11/2011 House Introduced and read first time ([House Journal‑page 83](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 83](file:///h:\hj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/14/2010](file:///p:\pprever\2011-12\3207_20101214.docx)

**A** **BILL**

TO AMEND SECTION 16‑25‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL DOMESTIC VIOLENCE OFFENSES, PENALTIES, AND PROSECUTION, SO AS TO PROVIDE THAT A JUDGE MAY PROCEED WITH THE PROSECUTION OF A CASE IF THE VICTIM IS NOT PRESENT AND TO PROVIDE THAT BEFORE DISMISSING A CASE, THE JUDGE SHALL MAKE WRITTEN FINDINGS AS TO WHETHER THE PROSECUTING OFFICIAL IS PREPARED TO PROSECUTE THE CASE AND THE TYPE OF EVIDENCE THAT WILL BE PRESENTED; AND TO AMEND SECTION 16‑25‑70, AS AMENDED, RELATING TO LAW ENFORCEMENT’S AUTHORITY AND RESPONSIBILITIES WITH REGARD TO ARRESTS IN AND INVESTIGATIONS OF CRIMINAL DOMESTIC VIOLENCE, SO AS TO REQUIRE THE INVESTIGATING AGENCY TO DOCUMENT THE INVESTIGATION AND TO MAINTAIN THE INVESTIGATION REPORT.

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

SECTION 1. Section 16‑25‑20(E) of the 1976 Code, as last amended by Act 255 of 2008, is further amended to read:

“(E)(1) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case. However, a judge may proceed with the prosecution of a case without the victim present.

(2) Prior to dismissing a case brought for a violation provided for in this chapter, the judge shall inquire and make written findings as to whether the prosecuting official is ready to proceed with the trial of the case and what type of evidence, including, but not limited to, physical, testimonial, or documentary evidence the prosecution is prepared to present.”

SECTION 2. Section 16‑25‑70(A) of the 1976 Code, as last amended by Act 319 of 2008, is further amended to read:

“(A) A law enforcement officer may arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16‑25‑20(A) or (E), 16‑25‑65, or 16‑25‑125 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. The investigation must be documented on an incident report form which must be maintained by the investigating agency. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.”

SECTION 3. 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 4. This act takes effect upon approval by the Governor.

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