**South Carolina General Assembly**

119th Session, 2011-2012

**S. 376**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Bryant

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Introduced in the Senate on January 18, 2011

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

Summary: Restraining orders

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/18/2011 Senate Introduced and read first time ([Senate Journal‑page 3](file:///h:\sj%20archive\2011\01-18-11.docx))

1/18/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 3](file:///h:\sj%20archive\2011\01-18-11.docx))

3/7/2011 Senate Referred to Subcommittee: Knotts (ch), Massey, Coleman

**VERSIONS OF THIS BILL**

[1/18/2011](file:///p:\pprever\2011-12\376_20110118.docx)

**A** **BILL**

TO AMEND SECTION 16‑3‑1750 OF THE 1976 CODE, RELATING TO THE DURATION OF A RESTRAINING ORDER AGAINST A PERSON ENGAGED IN HARASSMENT OR STALKING, TO PROVIDE THAT THE ORDER MAY NOT BE LIFTED WITHOUT THE CONSENT OF THE VICTIM; TO AMEND SECTION 16‑3‑1780, RELATING TO THE MODIFICATION OF RESTRAINING ORDERS, TO PROVIDE THAT THE COURT MAY NOT TERMINATE THE FIXED PERIOD OR TERMINATE A RESTRAINING ORDER WITHOUT THE PRIOR CONSENT OF THE PLAINTIFF; TO AMEND SECTION 16‑25‑120, RELATING TO THE ISSUANCE OF A RESTRAINING ORDER, TO PROVIDE THAT THE COURT MAY NOT SHORTEN THE FIXED PERIOD OR TERMINATE A RESTRAINING ORDER OR PROTECTIVE ORDER WITHOUT PRIOR CONSENT OF THE VICTIM; AND TO AMEND SECTION 20‑4‑70, RELATING TO THE DURATION OF THE TERM OF A PROTECTIVE ORDER AND THE MODIFICATION OF ITS TERMS, TO PROVIDE THAT EITHER PARTY MAY EXTEND THE LENGTH OF AN ORDER, AND TO PROVIDE THAT THE LENGTH OF THE ORDER MAY NOT BE SHORTENED OR TERMINATED WITHOUT THE CONSENT OF THE PETITIONER.

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

SECTION 1. Section 16‑3‑1750(E) of the 1976 Code is amended to read:

“(E) A restraining order remains in effect for a fixed period of time of not less than one year, as determined by the court on a case‑by‑case basis. A restraining order may not be lifted by the court without the prior consent of the plaintiff.”

SECTION 2. Section 16‑3‑1780(D) of the 1976 Code is amended to read:

“(D) The court may modify the terms of an order issued pursuant to this section but may not shorten the fixed period of an order or terminate the order without the prior consent of the plaintiff.”

SECTION 3. Section 16‑25‑120(C) of the 1976 Code is amended to read:

“(C) When considering release of a person on bond under this section, the court must consider whether to issue a restraining order or order of protection provided for in Chapter 4 of Title 20 against the person. The court must consider the factors enumerated in subsection (B) of this section, and if it determines in its discretion that a restraining order or order of protection is required, it should issue the order or forward the matter to the appropriate court. If the court issues an order pursuant to this subsection, it may not shorten the fixed period or terminate the order without the prior consent of the victim.”

SECTION 4. Section 20‑4‑70 of the 1976 Code is amended to read:

“Section 20‑4‑70. (A) An order of protection issued under Section 20‑4‑60 must be for a fixed time not less than six months nor more than one year unless the parties have reconciled as evidenced by an order of dismissal and may be extended by order of the court upon motion of either party ~~or terminated by order of the court upon motion by either party~~ showing good cause with notice to the other party. A respondent has the right to a hearing on the extension of an order issued pursuant to this section within thirty days of the date upon which the order will expire. Except as otherwise provided in this subsection, an order of protection issued under Section 20‑4‑60 may not be terminated prior to the expiration of its fixed or extended term without the consent of the petitioner. If the parties reconcile, the issuing court may grant an order of dismissal without a hearing if the petitioner receiving the order of protection to be dismissed appears personally at the offices of the issuing court, shows proper identification, and signs a written request to dismiss based on the reconciliation.

(B) Provisions included in an order of protection granting relief pursuant to Section 20‑4‑60(c) must be enforced until further order of the court following the issuance of the order unless before the expiration of the period the court has scheduled a hearing pursuant to the filing of an action for divorce or separate support and maintenance to determine the temporary rights and obligations of the parties with respect to support of a spouse or children, custody and visitation, or the distribution of personal property. If the hearing has been scheduled, relief granted under Section 20‑4‑60(c) remains in effect until an order pursuant to the hearing is issued by the court.

(C) The family court may modify the terms of any order issued under this section; provided, however, that it may not shorten the length of a fixed or extended time period or terminate an order of protection without the petitioner’s prior written consent.

(D) An order of protection issued by a magistrate expires as provided under the terms of the order or upon the issuance of a subsequent order by the family court, whichever occurs first.”

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

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