**A** **BILL**

TO AMEND THE CODE OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑3‑1030 SO AS TO ESTABLISH THE FELONY OFFENSE OF STRANGULATION AND THE FELONY OFFENSE OF SMOTHERING AND TO PROVIDE PENALTIES; TO AMEND SECTION 16‑25‑65, AS AMENDED, RELATING TO THE OFFENSE OF CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO PROVIDE THAT STRANGULATION AND SMOTHERING ARE BOTH CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE AND TO DEFINE SERIOUS BODILY INJURY AND PETECHIA.

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

SECTION 1. Article 11, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑1030. (A) It is unlawful for a person to intentionally impede the normal breathing or circulation of blood by:

(1) applying pressure on the throat or neck; or

(2) blocking the nose or mouth of another person.

(B) A person who violates the provisions of subsection (A)(1) is guilty of the felony offense of strangulation and, upon conviction, must be imprisoned not more than five years.

(C) A person who violates the provisions of subsection (A)(2) is guilty of the felony offense of smothering and, upon conviction, must be imprisoned not more than five years.”

SECTION 2. Section 16‑25‑65 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑65. (A) A person who violates Section 16‑25‑20(A) is guilty of the offense of criminal domestic violence of a high and aggravated nature when one of the following occurs~~.~~, the person commits:

(1) an assault and battery which involves the use of a deadly weapon or results in serious bodily injury to the victim; ~~or~~

(2) an assault, with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury or death; or

(3) an assault and battery by committing the offense of strangulation or the offense of smothering, or both, as both are provided for in Section 16‑3‑1030, which results in serious bodily injury or death.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned not less than a mandatory minimum of one year ~~nor~~ and not more than ten years. The court may suspend the imposition or execution of all or part of the sentence, except the one‑year mandatory minimum sentence, and place the offender on probation conditioned upon the offender completing, to the satisfaction of the court, a program designed to treat batterers offered through a government agency, nonprofit organization, or private provider approved by the Department of Social Services. The offender must pay a reasonable fee for participation in the treatment program, but no person may be denied treatment due to inability to pay. If the offender suffers from a substance abuse problem, the judge may order, or the batterer treatment program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61‑12‑20. The offender must pay a reasonable fee for participation in the substance abuse treatment program, but no person may be denied treatment due to inability to pay.

(C) The provisions of subsection (A) create a statutory offense of criminal domestic violence of a high and aggravated nature ~~and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature~~.

(D) For the purposes of this section:

(1) ‘Serious bodily injury’ means bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive, any fracture of a bone, a broken nose, a burn, a petechia, a temporary loss of consciousness, sight or hearing, a concussion or a loss or fracture of a tooth.

(2) ‘Petechia’ means a minute colored spot that appears on the skin, eye, eyelid, or mucous membrane of a person as a result of localized hemorrhage or rupture to a blood vessel or capillary.”

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

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