~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 22, 2017

**S. 131**

Introduced by Senators McLeod, Hutto, Jackson, Kimpson, M.B. Matthews, Fanning, Shealy and Senn

S. Printed 3/22/17--S.

Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 131) to amend Section 16‑17‑420, Code of Laws of South Carolina, 1976, relating to offenses involving disturbing schools, so as to restructure the offenses to provide, 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 a 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.

(B) For the purpose of this subsection, ‘person who is not a student’ means a person who:

(1) is not enrolled in the school or college that the person interferes with, disrupts, or disturbs as described by subsection (A); or

(2) is suspended from or expelled from the school or college, has left school property, and returns while under suspension or expulsion to the school or college and causes the interference, disruption, or disturbance as described by subsection (A).

~~(B)~~(C) Any person ~~violating any of the provisions~~ who violates a provision of this ~~section shall be~~ section is guilty of a misdemeanor and, ~~on~~ upon conviction ~~thereof, shall pay a fine of~~, must be fined not more than ~~one~~ two thousand dollars or ~~be~~ imprisoned ~~in the county jail~~ for not more than ~~ninety days~~ one year, or both.

~~(C)~~ ~~The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section. If the person is a child as defined by Section 63-19-20, jurisdiction must remain vested in the Family Court.~~”

SECTION 2. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

“Section 16-17-425. (A) It is unlawful for a student of a school or college in this State to refuse or fail to leave school or college grounds or property after that student has received notice by a school or college administrator that the student has been suspended from school. The notice may be given verbally or in writing. The suspended student shall not be charged with a violation of this section if the student complies with a directive to report to the school administrative offices, or to another office or area designated by the school personnel, and cooperates with school personnel to arrange for transportation from the school. Where practicable, school administrators should comply with this subsection before calling for law enforcement intervention.

(B) For the purpose of this section ‘student’ means a person who is enrolled in the school or college where the refusal or failure to leave occurs. This definition does not include a person who has left school property due to a previous suspension or expulsion and returns without permission during the term of his suspension or expulsion.

(C) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars, or imprisoned for not more than 30 days, or both.

(D) Nothing in this section, including requests or demands by school personnel, shall limit or impair the authority of the law enforcement officer to make the determination of whether or not the actions of the student constitute sufficient probable cause for an arrest.

(E) The provisions of this section do not apply to school‑sponsored athletic events.”

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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Renumber sections to conform.

Amend title to conform.

SANDY SENN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2017**

**State Expenditure**

This bill relates to offenses involving the disturbance of schools and restructures the list of actions that constitute an offense. For persons who are not students, these actions are considered offenses: entry of a school or college without administrative permission, loitering on school grounds after receiving notice to vacate, initiating a physical assault on or fighting with another person on school grounds, continuing to be loud or boisterous after receiving instructions to cease, and threatening physical harm or the use of deadly force. The bill also increases the fines and imprisonment terms for convictions of these offenses from not more than one thousand dollars to not more than two thousand dollars, and not more than 90 days to not more than one year. Additionally, the bill vests the summary court with exclusive jurisdiction over school disturbance cases except in instances when the offender is a child; in this circumstance, the case will be heard in family court. These provisions do not apply during school-sponsored athletic events.

**Judicial Department.** Cases involving school disturbances are currently heard in summary court, circuit court, and family court, while the bill vests exclusive jurisdiction over these cases with the summary court. Data that was collected from all general sessions courts, all magistrates courts, and approximately 27% of the municipal courts indicate that were 132 convictions for disturbing schools in South Carolina in FY 2015-16.  The department reports it is unable to determine whether there will be an increase or decrease in the number of hearings held in summary or family courts as a result of the bill. Therefore, the expenditure impact is undetermined.

**Commission on Indigent Defense.** A determination of the bill’s fiscal impact is pending, as the agency is still reviewing the bill.

**Commission on Prosecution Coordination.** A determination of the bill’s fiscal impact is pending, as the agency is still reviewing the bill.

**Department of Corrections.** A determination of the bill’s fiscal impact is pending, as the agency is still reviewing the bill.

**Local Expenditure**

A determination of the bill’s fiscal impact is pending, as local law enforcement agencies are still reviewing the bill.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 16‑17‑420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO OFFENSES INVOLVING DISTURBING SCHOOLS, SO AS TO RESTRUCTURE THE OFFENSES TO PROVIDE A DELINEATED LIST OF THOSE ACTIONS WHICH INVOLVE DISTURBING SCHOOLS, TO REVISE THE PENALTY FOR A VIOLATION OF A DISTURBING SCHOOLS OFFENSE, AND TO PROVIDE AN EXCEPTION FOR SCHOOL‑SPONSORED ATHLETIC EVENTS.

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~~:~~

~~(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 purpose 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 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 more than ~~one~~ two thousand dollars or ~~be~~ imprisoned ~~in the county jail for~~ not more than ~~ninety days~~ one year.

(C) ~~The~~ Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, the summary courts are vested with exclusive jurisdiction to hear and dispose of cases involving a violation of this section. However, if the person is a child as defined by Section 63‑19‑20, jurisdiction must remain vested in the Family Court.

(D) The provisions of this section do not apply to school‑sponsored athletic events.”

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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