AS PASSED BY THE SENATE

April 10, 2019

**S. 276**

Introduced by Senators Senn and McLeod

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Read the first time January 8, 2019.

**A** **BILL**

TO AMEND ARTICLE 5, CHAPTER 23, TITLE 16 OF THE 1976 CODE, RELATING TO MISCELLANEOUS OFFENSES INVOLVING WEAPONS, BY ADDING SECTION 16-23-540, TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO THREATEN, SOLICIT ANOTHER TO THREATEN, OR CONSPIRE TO THREATEN TO CAUSE DAMAGE, SERIOUS BODILY INJURY, OR DEATH OR TO CAUSE DAMAGE TO OR DESTROY A BUILDING OR OTHER REAL OR PERSONAL PROPERTY BY USE OF A DANGEROUS WEAPON ON ANY PREMISES OR PROPERTY OWNED, OPERATED, OR CONTROLLED BY A PRIVATE OR PUBLIC SCHOOL, COLLEGE, UNIVERSITY, TECHNICAL COLLEGE, OR OTHER POST‑SECONDARY INSTITUTION, IN A CHURCH, IN ANY PUBLICLY OWNED BUILDING OR RECREATIONAL PARK AREAS, OR IN A PUBLIC GATHERING PLACE; TO PROVIDE THAT A PERSON WHO IS CHARGED WITH A VIOLATION MUST UNDERGO A MENTAL HEALTH EVALUATION AND, IF NECESSARY, MENTAL HEALTH TREATMENT OR COUNSELING; AND TO PROVIDE FOR PENALTIES.

Amend Title To Conform

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

SECTION 1. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16-23-540. (A) It is unlawful for a person to threaten, solicit another to threaten, or conspire to threaten to cause damage, serious bodily injury, or death to others or to cause damage to or destroy a building or other real or personal property by use of a dangerous weapon if the threat is to occur while:

(1) on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution;

(2) in a church, as defined by Section 61-6-120(A)(1);

(3) in any publicly owned building or recreational park areas; or

(4) at a public gathering place.

(B) A person who is charged with violating subsection (A) may, as a condition of his initial bond hearing and any subsequent bond hearing, be ordered to undergo a mental health evaluation. If the mental health evaluation reveals that the person needs mental health treatment or counseling, then the court shall require him to undergo mental health treatment or counseling by a court-approved mental health professional, mental health facility, or facility operated by the State Department of Mental Health as an additional condition of his bond.

(C) A person who violates subsection (A) and who undergoes a mental health evaluation and it is determined that the person does not need mental health treatment or counseling:

(1) is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than two years, or both;

(2) if the violation results in damage to or destruction of a building or other real or personal property, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars, imprisoned not more than three years, or both; or

(3) if the violation results in the serious bodily injury or death of another person, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.

(D) Information related to a mental evaluation ordered pursuant to this section shall be strictly protected under the Health Insurance Portability and Accountability Act of 1996 and the results of the evaluation must only be released to relevant parties specified under a protective order signed by the chief administrative judge of general sessions court for the jurisdiction.

(E) Nothing contained in this section may be construed to repeal, replace, or preclude application of any other criminal statute.”

SECTION 2. The Department of Mental Health shall study the scope of application and financial impact of this act and shall annually make a report to the General Assembly containing its findings by January 1 beginning in 2020.

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

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