**A** **BILL**

TO AMEND SECTION 16‑3‑600, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VARIOUS ASSAULT AND BATTERY OFFENSES, SO AS TO DEFINE NECESSARY TERMS, TO PROVIDE THAT A PERSON WHO UNLAWFULLY COMMITS AN ASSAULT AND BATTERY OFFENSE AGAINST A HEALTH CARE PROFESSIONAL DURING THE COURSE OF HIS DUTIES IS SUBJECT TO GREATER MAXIMUM PENALTIES DEPENDING ON THE DEGREE OF THE ASSAULT AND BATTERY COMMITTED.

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

SECTION 1. Section 16‑3‑600 of the 1976 Code is amended to read:

“Section 16‑3‑600. (A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(2) ‘Moderate bodily injury’ means physical injury that involves prolonged loss of consciousness, or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ, or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one‑time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.

(3) ‘Private parts’ means the genital area or buttocks of a male or female or the breasts of a female.

(4) ‘Health care professional’ means a physician, a physician’s assistant, a registered nurse, a licensed practical nurse, an emergency medical service provider, a firefighter, an emergency room physician, an emergency room nurse, or an allied health professional.

(5) ‘Health care facility’ is defined by Section 44‑7‑130(10) and includes a physician’s office.

(B)(1) A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person, and:

(a) great bodily injury to another person results; or

(b) the act is accomplished by means likely to produce death or great bodily injury.

(2) A person who violates this subsection is guilty of a felony~~,~~ and, upon conviction, must be imprisoned for not more than twenty years.

(3) A person who violates this subsection by committing the offense of assault and battery of a high and aggravated nature against a health care professional in the performance of his official duties or by committing the offense of assault and battery of a high and aggravated nature in a health care facility is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(4) Assault and battery of a high and aggravated nature is a lesser‑included offense of attempted murder, as defined in Section 16‑3‑29.

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of a person, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony~~,~~ and, upon conviction, must be imprisoned for not more than ten years.

(3) A person who violates this subsection by committing the offense of assault and battery in the first degree against a health care professional in the performance of his official duties or by committing the offense of assault and battery in the first degree in a health care facility is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years. Assault and battery in the first degree of a health care professional or a person in a health care facility are lesser‑included offenses of assault and battery of a high and aggravated nature of a health care professional or a person in a health care facility, as defined in subsection (B)(3).

(4) Assault and battery in the first degree is a lesser‑included offense of assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(D)(1) A person commits the offense of assault and battery in the second degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so, and:

(a) moderate bodily injury to another person results or moderate bodily injury to another person could have resulted; or

(b) the act involves the nonconsensual touching of the private parts of a person, either under or above clothing.

(2) A person who violates this subsection is guilty of a misdemeanor~~,~~ and, upon conviction, must be fined not more than two thousand five hundred dollars, or imprisoned for not more than three years, or both.

(3) A person who violates this subsection by committing the offense of assault and battery in the second degree against a health care professional in the performance of his official duties or by committing the offense of assault and battery in the second degree in a health care facility is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than ten years, or both. Assault and battery in the second degree of a health care professional or a person in a health care facility are lesser‑included offenses of assault and battery in the first degree of a health care professional or a person in a health care facility, as defined in subsection (C)(3), and assault and battery of a high and aggravated nature on a health care professional or a person in a health care facility, as defined in subsection (B)(3).

(4) Assault and battery in the second degree is a lesser‑included offense of assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(E)(1) A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so.

(2) A person who violates this subsection is guilty of a misdemeanor~~,~~ and, upon conviction, must be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

(3) A person who violates this subsection by committing the offense of assault and battery in the third degree against a health care professional in the performance of his official duties or by committing the offense of assault and battery in the third degree in a health care facility is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both. Assault and battery in the third degree of a health care professional or a person in a health care facility are lesser‑included offenses of assault and battery in the second degree on a health care professional or a person in a health care facility, as defined in subsection (D)(3), and assault and battery in the first degree of a health care professional or a person in a health care facility, as defined in subsection (C)(3), and assault and battery of a high and aggravated nature of a health care professional or a person in a health care facility, as defined in subsection (B)(3).

(4) Assault and battery in the third degree is a lesser‑included offense of assault and battery in the second degree, as defined in subsection (D)(1), assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.”

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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