**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑116‑35 SO AS TO PROVIDE PRIVATE COLLEGE CAMPUS SAFETY AND SECURITY DEPARTMENTS ARE THE LEGAL CUSTODIANS OF CERTAIN RECORDS RELATED TO CRIMINAL INVESTIGATIONS AND CRIMINAL INTELLIGENCE MAINTAINED BY THE DEPARTMENT, TO PROVIDE SUCH RECORDS ARE NOT PUBLIC RECORDS FOR PURPOSES OF THE FREEDOM OF INFORMATION ACT, TO PROVIDE THESE DEPARTMENTS SHALL MAKE THESE RECORDS AVAILABLE FOR INSPECTION BY ANY PERSON, SUBJECT TO CERTAIN RESTRICTIONS, TO PROVIDE THESE DEPARTMENTS SHALL FURNISH COPIES OF THESE RECORDS BUT MAY CHARGE ACTUAL COPY COSTS, TO PROVIDE REMEDIES FOR VIOLATIONS, AND TO PROVIDE LIMITS ON CERTAIN RECORDKEEPING REQUIREMENTS.

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

SECTION 1. Chapter 116, Title 59 of the 1976 Code is amended by adding:

“Section 59‑116‑35. (A) A campus safety and security department is the legal custodian of all books, papers, documents, records of criminal investigations or of criminal intelligence information, or other records and property maintained by the department. These books, papers, documents, records of criminal investigations or of criminal intelligence information, or other records maintained by a campus safety and security department are not public records as that term is defined in Section 30‑4‑10(c).

(B) As used in this section:

(1) ‘Complaining witness’ means an alleged victim or other person who reports a violation or apparent violation of the law to a campus safety and security department.

(2) ‘Violation of the law’ means crimes and offenses that are prosecutable as misdemeanors or felonies in the criminal courts in this State or the United States.

(C) A campus safety and security department shall, upon request by any person and subject to the provisions and implementing regulations of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f), and the federal Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232(g), permit the following information maintained by the campus safety and security department to be inspected at reasonable times and under reasonable supervision:

(1) the time, date, location, and nature of a violation or apparent violation of the law reported to the campus safety and security department;

(2) the name, sex, age, address, employment, and alleged violation of law of a person arrested or formally charged or indicted for an alleged violation of law in a court of competent jurisdiction;

(3) the circumstances surrounding an arrest, including the time and place of the arrest, whether the arrest involved resistance, possession or use of weapons, or pursuit, and a description of any items seized in connection with the arrest;

(4) the contents of emergency telephone calls received by or on behalf of the campus safety and security department, except for such contents that reveal the natural voice, name, address, telephone number, or other information that may identify the caller, victim, or witness; provided that:

(a) in order to protect the identity of the complaining witness, the contents of emergency telephone calls may be released pursuant to this section in the form of a written transcript or altered voice reproduction; and

(b) the original must be provided under process to be used as evidence in any relevant civil or criminal proceeding;

(5) the contents of communications between or among employees of the campus safety and security department pertaining to the information described in items (1) through (4) that are broadcast over the public airways;

(6) the name, sex, age, and address of a complaining witness; and

(7) the daily log of crimes reported to the campus safety and security department that is maintained pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and implementing regulations.

(D) A campus safety and security department shall furnish copies of the information requested in subsection (C) upon payment of the actual cost of reproducing the information. A person who is denied access to or copies of the information listed in subsection (C) may apply to a court of competent jurisdiction for an order compelling disclosure of the information.

(E) A campus safety and security department shall temporarily withhold the name or address of a complaining witness if release of the information is reasonably likely to pose a threat to the mental health, physical health, or personal safety of the complaining witness or materially compromise an ongoing or future criminal investigation or criminal intelligence operation.  Information temporarily withheld under this subsection must be made available for inspection or copying as soon as the circumstances that justify withholding it cease to exist. A person who is denied access to information withheld under this subsection may apply to a court of competent jurisdiction for an order compelling disclosure of the information.  In the action, a court shall balance the interests of the requesting individual in disclosure against the interests of the campus safety and security department and the alleged victim in withholding the information.

(F) If a campus safety and security department believes that the release of information listed in subsection (C) will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial, will undermine an ongoing or future investigation, or will violate the provisions and implementing regulations of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or the federal Family Educational Rights and Privacy Act, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information.

(G) Actions brought pursuant to subsections (D), (E), or (F) must be set down for immediate hearing, and subsequent proceedings in such actions must be accorded priority by the trial and appellate courts.

(H) Nothing in this section may be construed as requiring campus safety and security departments to disclose:

(1) information that would not be required to be disclosed under the provisions of Title 17; or

(2) information that is reasonably likely to identify a confidential informant.

(I) Campus safety and security departments are not required to maintain any recordings of emergency telephone calls for more than thirty days from the time of the call, unless a court of competent jurisdiction orders a portion sealed.”

SECTION 2. This act takes effect upon approval by the Governor.

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