**A** **BILL**

TO AMEND SECTION 16‑3‑651, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF CERTAIN CRIMINAL SEXUAL CONDUCT OFFENSES, SO AS TO INCLUDE A DEFINITION FOR “OFFENSIVE CONTACT”; AND TO AMEND SECTION 16‑3‑654, RELATING TO CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE, SO AS TO REVISE THE ELEMENTS OF THE OFFENSE.

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

SECTION 1. Section 16‑3‑651 of the 1976 Code is amended to read:

“Section 16‑3‑651. For the purposes of Sections 16‑3‑651 to 16‑3‑659.1:

(a) ‘Actor’ means a person accused of criminal sexual conduct.

(b) ‘Aggravated coercion’ means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.

(c) Aggravated force’ means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon.

(d) ‘Intimate parts’ includes the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being and the breasts of a female human being.

(e) ‘Mentally defective’ means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.

(f) ‘Mentally incapacitated’ means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.

(g) ‘Offensive contact’ means touching that offends a reasonable sense of personal dignity.

(h) ‘Physically helpless’ means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

~~(h)~~(i) ‘Sexual battery’ means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

~~(i)~~(j) ‘Victim’ means the person alleging to have been subjected to criminal sexual conduct.”

SECTION 2. Section 16‑3‑654 of the 1976 Code is amended to read:

“Section 16‑3‑654. (1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven, the actor:

(a) ~~The actor~~ uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances~~.~~;

(b) ~~The actor~~ knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery~~.~~;

(c) acts with the intent to cause a harmful or offensive contact with an intimate part of a victim, and a sexually offensive contact with the victim directly or indirectly results;

(d) acts with the intent to cause a harmful or offensive contact with the victim by use of the victim’s intimate part, and a sexually offensive contact with that victim directly or indirectly results;

(e) acts to cause an imminent apprehension of the conduct described in subitems (c) and (d), and a sexually offensive contact with that person directly or indirectly results;

(f) causes contact between a sexual organ, from which a condom has been removed, and the intimate part of a victim who did not verbally consent to the condom being removed;

(g) causes contact between an intimate part of the victim and a sexual organ of another person from which the person removed a condom without verbal consent.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than ten years, according to the discretion of the court.”

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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