**A** **BILL**

TO AMEND SECTION 16‑17‑530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PUBLIC DISORDERLY CONDUCT, SO AS TO RESTRUCTURE THE OFFENSE TO INCLUDE DISRUPTING OR DISTURBING A RELIGIOUS SERVICE OR FUNERAL IN THE PURVIEW OF THE STATUTE AND TO PROVIDE GRADUATED PENALTIES FOR A VIOLATION OF A DISORDERLY CONDUCT OFFENSE; AND TO REPEAL SECTIONS 16‑17‑520 AND 16‑17‑525 RELATING TO DISTURBANCES OF RELIGIOUS SERVICES AND FUNERALS, RESPECTIVELY.

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

SECTION 1. Section 16‑17‑530 of the 1976 Code, as last amended by Act 90 of 2019, is further amended to read:

“Section 16‑17‑530. (A) ~~A person who is: (1) found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducts himself in a disorderly or boisterous manner; (2) uses obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church; or (3) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharges any gun, pistol, or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days. However, conditional discharge may be granted by the court in accordance with the provisions of this section upon approval by the circuit solicitor.~~

As used in this section, ‘disorderly conduct’ means a public disturbance intentionally caused by a person who:

(1) is in a grossly intoxicated condition on any highway or at any public place or public gathering;

(2) engages in fighting or other violent conduct or engages in conduct threatening imminent fighting or other violence;

(3) makes any utterance, gesture, or display, or uses abusive, obscene, or profane language which is intended and plainly likely to provoke violent retaliation and cause a breach of the peace;

(4) except as provided in item (5), disrupts, disturbs, or interferes with a religious service or assembly or engages in conduct which disturbs the peace or order at any religious service or assembly; or

(5) engages in conduct with the intent to impede, disrupt, disturb, or interfere with the orderly administration of any funeral, memorial service, or family processional to the funeral or memorial service including, but not limited to, a military funeral, service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service is taking place. The following conduct that occurs within two hours preceding, during, or within two hours after a funeral or memorial service constitutes disorderly conduct pursuant to the provisions of this item:

(a) displaying, within five hundred feet of the ceremonial site, location of the funeral or memorial, or the family’s processional route to the funeral or memorial service, any visual image that conveys fighting words or actual or imminent threats of harm directed to any person or property associated with the funeral, memorial service, or processional route;

(b) uttering, within five hundred feet of the ceremonial site, location of the funeral or memorial service, or the family’s processional route to the funeral or memorial service, loud, threatening, or abusive, obscene, or profane language or singing, chanting, whistling, or yelling with or without noise amplification in a manner that would tend to impede, disrupt, disturb, or interfere with a funeral, memorial service, or processional route; or

(c) attempting to block or blocking pedestrian or vehicular access to the ceremonial site or location being used for a funeral or memorial.

As used in this item, the term ‘facilities or buildings’ includes the surrounding grounds and premises of a building or facility used in connection with the operation or functioning of the facilities or buildings.

(B) A person who violates the provisions of this section commits the offense of disorderly conduct and:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ninety days;

(2) for a second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than three years; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(C) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, the summary courts are vested with jurisdiction to hear and dispose of cases involving a first offense violation of this section. If the person who violates the provisions of this section is a child, as defined in Section 63‑19‑20, jurisdiction must remain vested in the family court.

~~(B)~~(D) When a person who has not previously been convicted of ~~an~~ a first offense pursuant to this section or any similar first offense under any state or federal statute relating to drunk or disorderly conduct pleads guilty to or is found guilty of a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that the person cooperate in a treatment and rehabilitation program of a state‑supported facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense pursuant to this section. Discharge and dismissal pursuant to this section may occur only once with respect to any person.

~~(C)~~(E) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection ~~(B)~~ (D), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection ~~(B)~~ (D)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after a hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

~~(D)~~(F) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee to the summary court of one hundred fifty dollars. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 2. Sections 16‑17‑520 and 16‑17‑525 of the 1976 Code are repealed.

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. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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