**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4226**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Clemmons and T.R. Young

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Introduced in the House on January 12, 2010

Currently residing in the House Committee on **Judiciary**

Summary: Attempted murder

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/1/2009 House Prefiled

12/1/2009 House Referred to Committee on **Judiciary**

1/12/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑35

1/12/2010 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑36

1/26/2010 House Member(s) request name added as sponsor: T.R.Young

**VERSIONS OF THIS BILL**

[12/1/2009](file:///p:\pprever\2009-10\4226_20091201.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑3‑29 SO AS TO CREATE THE OFFENSE OF ATTEMPTED MURDER; TO AMEND SECTION 16‑1‑60, AS AMENDED, RELATING TO VIOLENT OFFENSES, SO AS TO INCLUDE ATTEMPTED MURDER AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE OFFENSES; BY ADDING SECTION 16‑3‑621 SO AS TO DEFINE NECESSARY TERMS AND CREATE GRADUATED ASSAULT AND BATTERY OFFENSES; TO AMEND SECTION 17‑25‑45, AS AMENDED, RELATING TO LIFE SENTENCES FOR CERTAIN REPEAT OFFENSES, SO AS TO ADD ATTEMPTED MURDER AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE TO THE OFFENSES CONSIDERED “MOST SERIOUS”; AND TO REPEAL COMMON LAW ASSAULT AND BATTERY OFFENSES.

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

SECTION 1. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑29. A person who attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder. A person who violates the provisions of this section is guilty of a felony and must be imprisoned for a mandatory minimum of not less than twenty years, no part of which may be suspended or probation granted, or may be sentenced up to life imprisonment.”

SECTION 2. Section 16‑1‑60 of the 1976 Code, as last amended by Act 379 of 2006, is further amended to read:

“Section 16‑1‑60. (A) For purposes of definition under South Carolina law, a violent crime includes the offenses of:

(1) murder (Section 16‑3‑10);

(2) attempted murder (16‑3‑29);

(3) criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653);

(4) criminal sexual conduct with minors, first and second degree (Section 16‑3‑655);

(5) assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656);

(6) assault and battery with intent to kill (Section 16‑3‑620);

(7) assault and battery of a high and aggravated nature (Section 16‑3‑621(B)(1);

(8) kidnapping (Section 16‑3‑910);

(9) voluntary manslaughter (Section 16‑3‑50);

(10) armed robbery (Section 16‑11‑330(A));

(11) attempted armed robbery (Section 16‑11‑330(B));

(12) carjacking (Section 16‑3‑1075);

(13) drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C);

(14) manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375;

(15) arson in the first degree (Section 16‑11‑110(A));

(16) arson in the second degree (Section 16‑11‑110(B));

(17) burglary in the first degree (Section 16‑11‑311);

(18) burglary in the second degree (Section 16‑11‑312(B));

(19) engaging a child for a sexual performance (Section 16‑3‑810);

(20) homicide by child abuse (Section 16‑3‑85(A)(1));

(21) aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2));

(22) inflicting great bodily injury upon a child (Section 16‑3‑95(A));

(23) allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B));

(24) criminal domestic violence of a high and aggravated nature (Section 16‑25‑65);

(25) abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F));

(26) abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E));

~~accessory before the fact to commit any of the above offenses (Section 16‑1‑40); attempt to commit any of the above offenses (Section 16‑1‑80);~~ and

(27) taking of a hostage by an inmate (Section 24‑13‑450).

(B) For purposes of definitions under South Carolina law, a violent crime includes accessory before the fact to commit any of the offenses delineated in subsection (A) pursuant to Section 16‑1‑40 and attempt to commit any of the offenses specifically enumerated in subsection (A) pursuant to Section 16‑1‑80.

(C) Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 3. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑621.(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 bodily injury which requires medical treatment but does not cause a substantial risk of death or which does not cause serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

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

(B)(1) A person commits the offense of assault and battery of high and aggravated nature if he unlawfully injures another person, or if he offers or attempts to injure another person with the present ability to do so, and when:

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

(b) the act involves nonconsensual touching of the private parts of an adult, either under or above clothing, with lewd and lascivious intent;

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

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

(2) A person who violates the provisions of subsection (1) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years.

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

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

(b) the act involves nonconsensual touching of the private parts of an adult, either under or above clothing; or

(c) there is a great disparity of the size or physical condition between the actor and the victim.

(2) A person convicted pursuant to subsection (1) 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.

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

(2) A person convicted pursuant to subsection (1) 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.”

SECTION 4. Section 17‑25‑45(C)(1) of the 1976 Code, as last amended by Act 176 of 2002, is further amended to read:

“(1) ‘Most serious offense’ means:

16‑1‑40 Accessory, for any offense enumerated in this item

16‑1‑80 Attempt, for any offense enumerated in this item

16‑3‑10 Murder

16‑3‑29 Attempted Murder

16‑3‑30 Killing by poison

16‑3‑40 Killing by stabbing or thrusting

16‑3‑50 Voluntary manslaughter

16‑3‑85(A)(1) Homicide by child abuse

16‑3‑85(A)(2) Aiding and abetting homicide by child abuse

16‑3‑210 Lynching, First degree

16‑3‑430 Killing in a duel

16‑3‑620 Assault and battery with intent to kill

16‑3‑621(B)(1) Assault and battery of a high and aggravated nature

16‑3‑652 Criminal sexual conduct, First degree

16‑3‑653 Criminal sexual conduct, Second degree

16‑3‑655 Criminal sexual conduct with minors, except where evidence is presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16‑3‑655(3)

16‑3‑656 Assault with intent to commit criminal sexual conduct, First and Second degree

16‑3‑910 Kidnapping

16‑3‑920 Conspiracy to commit kidnapping

16‑3‑1075 Carjacking

16‑11‑110(A) Arson, First degree

16‑11‑311 Burglary, First degree

16‑11‑330(A) Armed robbery

16‑11‑330(B) Attempted armed robbery

16‑11‑540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results

24‑13‑450 Taking of a hostage by an inmate

25‑7‑30 Giving information respecting national or state defense to foreign contacts during war

25‑7‑40 Gathering information for an enemy

43‑35‑85(F) Abuse or neglect of a vulnerable adult resulting in death

55‑1‑30(3) Unlawful removing or damaging of airport facility or equipment when death results

56‑5‑1030(B)(3) Interference with traffic‑control devices or railroad signs or signals prohibited when death results from violation

58‑17‑4090 Obstruction of railroad, death results.”

SECTION 5. The common law offenses of assault and battery with intent to kill, assault and battery of a high and aggravated nature, aggravated assault and battery, simple assault and battery, assault and battery, assault of a high and aggravated nature, aggravated assault, simple assault, and assault are abolished for offenses occurring after the effective date of this act.

SECTION 6. Wherever in the 1976 Code reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery of a high and aggravated nature as contained in Section 16‑3‑620; and wherever reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.

SECTION 7. 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 8. This act takes effect upon approval by the Governor.

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