**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3565**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. G.M. Smith

Document Path: l:\council\bills\ms\7092ahb11.docx

Introduced in the House on February 2, 2011

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

Summary: Robbery

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/2/2011 House Introduced and read first time ([House Journal‑page 56](file:///h:\hj%20archive\2011\02-02-11.docx))

2/2/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 56](file:///h:\hj%20archive\2011\02-02-11.docx))

**VERSIONS OF THIS BILL**

[2/2/2011](file:///p:\pprever\2011-12\3565_20110202.docx)

**A** **BILL**

TO AMEND SECTION 16‑11‑330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ARMED ROBBERY, SO AS TO ALLOW A PERSON UNDER THE AGE OF TWENTY‑ONE WHO COMMITS ARMED ROBBERY TO RECEIVE A YOUTHFUL OFFENDER SENTENCE NOT BELOW A MINIMUM OF THREE YEARS; AND TO AMEND SECTION 24‑19‑10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE YOUTHFUL OFFENDER ACT, SO AS TO REVISE THE DEFINITION OF YOUTHFUL OFFENDER TO INCLUDE PERSONS UNDER THE AGE OF TWENTY-ONE AT THE TIME OF CONVICTION FOR ARMED ROBBERY.

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

SECTION 1. Section 16‑11‑330 of the 1976 Code is amended to read:

“Section 16‑11‑330. (A) A person who commits robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he ~~was~~ is armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably ~~believed~~ believes to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum term of not less than ten years or more than thirty years, no part of which may be suspended or probation granted. ~~A~~ Except as provided in this subsection, a person convicted ~~under~~ pursuant to this subsection is not eligible for parole until the person has served at least seven years of the sentence.

(1) A person under the age of twenty‑one sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, convicted of armed robbery shall receive and serve a minimum sentence of at least three years, no part of which may be suspended. The person is not eligible for parole or probation until he has served a three‑year minimum sentence.

(2) A person between the ages of twenty‑one and twenty‑five who is convicted of armed robbery may not be sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act.

(B) A person who commits attempted robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he ~~was~~ is armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably ~~believed~~ believes to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.”

SECTION 2. Section 24‑19‑10 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

“Section 24‑19‑10. As used ~~herein~~ in this chapter:

~~(a)~~(1) ‘Department’ means the Department of Corrections.

~~(b)~~(2) ‘Division’ means the Youthful Offender Division.

~~(c)~~(3) ‘Director’ means the Director of the Department of Corrections.

~~(d)~~(4) ‘Youthful offender’ means an offender who is:

~~(i)~~(a) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

~~(ii)~~(b) seventeen but less than twenty‑five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

~~(iii)~~(c) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

~~(iv)~~(d) seventeen but less than twenty‑one years of age at the time of conviction for burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

~~(v)~~(e) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing a lewd act upon a child pursuant to Section 16‑15‑140, and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; ~~or~~

~~(vi)~~(f) seventeen but less than twenty‑five years of age at the time of conviction for committing a lewd act upon a child pursuant to Section 16‑15‑140, and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act~~.~~ ;or

(g) under the age of twenty‑one at the time of conviction for armed robbery pursuant to Section 16‑11‑330. The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence.

~~(e)~~(5) ‘Treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this ~~may~~ also may include vocational and other training considered appropriate and necessary by the division.

~~(f)~~(6) ‘Conviction’ means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge ~~where~~ when the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.”

SECTION 3. This act takes effect upon approval by the Governor.

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