~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

June 5, 2013

**H. 3717**

Introduced by Reps. Quinn, Bannister, Allison, Sandifer, Sellers, Clemmons, Ballentine, Atwater, Toole, Kennedy, Vick, Erickson, Long, Bernstein, Munnerlyn, Horne, Funderburk, Brannon, Henderson, Wood, Dillard, M.S. McLeod, Whipper and R.L. Brown

S. Printed 6/5/13--S.

Read the first time June 4, 2013.

**A** **BILL**

TO AMEND SECTION 16‑3‑1700, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE OFFENSES OF HARASSMENT AND STALKING, SO AS TO INCLUDE IN THE PURVIEW OF THE OFFENSES PERSONS WHO COMMIT THE OFFENSES WHILE SUBJECT TO THE TERMS OF A RESTRAINING ORDER ISSUED BY THE FAMILY COURT; AND TO AMEND SECTIONS 16‑3‑1710, 16‑3‑1720, AND 16‑3‑1730, ALL AS AMENDED, RELATING TO PENALTIES FOR HARASSMENT IN THE SECOND DEGREE, HARASSMENT IN THE FIRST DEGREE, AND STALKING, RESPECTIVELY, ALL SO AS TO INCLUDE PERSONS SUBJECT TO A RESTRAINING ORDER ISSUED BY THE FAMILY COURT.

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

SECTION 1. Section 16‑3‑1700 of the 1976 Code, as last amended by Act 106 of 2005, is further amended by adding an appropriately numbered subsection at the end to read:

“( ) A person who commits the offense of harassment in any degree or stalking, as defined in this section, while subject to the terms of a restraining order issued by the family court may be charged with a violation of this article and, upon conviction, may be sentenced pursuant to the provisions of Section 16‑3‑1710, 16‑3‑1720, or 16‑3‑1730.”

SECTION 2. Section 16‑3‑1710(B) of the 1976 Code, as last amended by Act 106 of 2005, is further amended to read:

“(B) A person convicted of harassment in the second degree is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both if:

(1) the person has a prior conviction of harassment or stalking within the preceding ten years; or

(2) at the time of the harassment an injunction or restraining order, including a restraining order issued by the family court, was in effect prohibiting the harassment.”

SECTION 3. Section 16‑3‑1720(B) of the 1976 Code, as last amended by Act 106 of 2005, is further amended to read:

“(B) A person who engages in harassment in the first degree when an injunction or restraining order, including a restraining order issued by the family court, is in effect prohibiting this conduct is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than three years, or both.”

SECTION 4. Section 16‑3‑1730(B) of the 1976 Code, as last amended by Act 106 of 2005, is further amended to read:

“(B) A person who engages in stalking when an injunction or restraining order, including a restraining order issued by the family court, is in effect prohibiting this conduct is guilty of a felony and, upon conviction, must be fined not more than seven thousand dollars, imprisoned not more than ten years, or both.”

SECTION 5. Section 20‑4‑60 of the 1976 Code, as last amended by Act 319 of 2008, is further amended by adding at the end:

“(F) If mutual orders of protection have been entered that do not comply with the provisions of this section a petitioner may request the order be vacated and all records of the order be destroyed.”

SECTION 6. Section 16‑3‑1760 of the 1976 Code, as last amended by Act 106 of 2005, is further amended by adding at the end:

“(E) Upon motion of a party, the court may determine that a temporary restraining order was improperly issued due to unknown facts. The court may order the temporary restraining order vacated and all records of the improperly issued restraining order destroyed.”

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

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