



South Carolina House of Representatives

Legislative Update

James H. "Jay" Lucas, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives returned **S.3**, the **DOMESTIC VIOLENCE REFORM ACT**, to the Senate with amendments. This comprehensive legislation includes recommendations of ad hoc committees appointed in the House and Senate to focus on the issue.

Domestic Violence Penalties

The legislation revises criminal penalties for domestic violence so that they emphasize not only the number of previous incidents but also better address the severity of violence as well as take into account whether certain aggravating circumstances are involved. Under the revisions, enhanced criminal penalties apply if certain egregious elements are present in an incident, such as strangulation, abuse committed in the presence of children, abuse of pregnant women, and violence that is used to prevent someone from summoning emergency assistance or reporting a crime. Penalty enhancements are provided when someone violates an order of protection in the course of committing domestic violence. Penalties are increased for Domestic Violence of a High and Aggravated Nature and all three degrees of Domestic Violence so that these crimes carry higher possible maximum terms of imprisonment. The felonies of First Degree Domestic Violence and Domestic Violence of a High and Aggravated Nature are added to the list of crimes classified as serious offenses. First Degree Domestic Violence joins Domestic Violence of a High and Aggravated Nature in the list of offenses designated as violent crimes.

Oversight of batterer treatment programs is transferred away from the Department of Social Services and the authority for approving and selecting domestic violence intervention programs is reassigned to the prosecuting agency.

The legislation includes firearms restrictions in conjunction with domestic violence convictions and protection orders that include an automatic lifetime prohibition on possessing firearms and ammunition for those convicted of the felony Domestic Violence of a High and Aggravated Nature, an automatic ten year ban for those convicted of the felony First Degree Domestic Violence, and provisions that allow for a ban of up to three years in convictions for the misdemeanor offenses of Second Degree and Third Degree Domestic Violence. Penalties are provided for violating firearms restrictions. The legislation establishes a protocol that allows those who are subject to firearms restrictions due to certain domestic violence offenses to have their gun rights restored once the period of restriction has expired and request that the State Law Enforcement Division notify the National Instant Criminal Background Check System in order to have their names removed.

Bond Reform

The legislation provides that when a person is charged with a domestic violence violation, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. These bond hearings must occur within twenty-four hours after the arrest.

The considerations used for determining bonds are revised to include whether someone poses a danger to an individual as well as to the community.

Domestic Violence Risk Assessors

Each municipal and county law enforcement agency is required to create an Office of Domestic Violence Risk Assessment that employs at least one domestic violence risk assessor who is licensed as a social worker, counselor, or psychologist. These domestic violence risk assessors are responsible for making recommendations to arresting law enforcement officers on whether charges should be made or sustained and, when an arrest is made for a domestic violence offence, performing risk assessments on a person's probability of recidivism and level of threat to the victim or the victim's family that must be considered by the court at the bond hearing. The legislation provides for portions of various court assessments to be distributed to municipal and county law enforcement agencies to offset the costs of maintaining domestic violence risk assessors' offices.

Permanent Restraining Orders

The legislation includes provisions that allow victims of domestic violence, sex crimes, and certain other offenses to obtain a permanent restraining order against an offender which a judge would put in place for life so that the order would not need to be periodically revisited and extended.

Social Policy

The legislation establishes a new statewide multidisciplinary Domestic Violence Advisory Committee that is composed of representatives from such fields as key state government positions, legislators, prosecutors, law enforcement officials, coroners, victims' advocates, and physicians. The committee is charged with decreasing the incidences of domestic violence in South Carolina by undertaking public education efforts, studying domestic violence in the state, assessing the effectiveness of state laws and programs to combat the problem, and advising on policy and practice changes, including the issuance of an annual report.

The Department of Social Services, in consultation with the South Carolina Voucher Program, is charged with studying whether adequate childcare services are available to allow domestic violence survivors to attend court hearings.

The legislation makes minors who have witnessed domestic violence eligible to receive counseling services funded through awards from the state's crime victim's compensation fund.

The legislation authorizes circuit solicitors to facilitate the development of community domestic violence coordinating councils that bring together a diverse array of disciplines and backgrounds from the public and private sectors to spearhead local efforts for ensuring that domestic violence survivors and their families have access to needed resources, to promote interdisciplinary and interagency efforts to counter domestic violence, and to increase public awareness and understanding of domestic violence and its consequences.

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The legislation requires the subject of domestic violence to be incorporated into the instruction that public school students receive in comprehensive health education in grades six through eight.

The House returned **S.268** to the Senate with amendments. The legislation revises the processes for initiating the **STATE GRAND JURY**, extending a state grand jury's term, expanding the scope of a state grand jury investigation, exercising judicial oversight, resolving conflicts of interest, and imposing disqualifications. The revisions provide that when the Attorney General and the State Law Enforcement Division Chief determine it is necessary to initiate the state grand jury, the Attorney General only has to notify the chief administrative judge that the state grand jury is being initiated. After being notified, the chief judge will then be required to impanel the state grand jury. The legislation also amends the standards for when a grand jury is needed. Current law states that the AG and SLED Chief may use the state grand jury when they "consider it necessary and normal investigative or prosecutorial procedures are not adequate." Under this bill, they would only have to show they "consider it necessary to enhance the effectiveness of investigative or prosecutorial procedures." Under this bill, the AG can automatically extend the state grand jury term for a period of six months up to a two-year maximum. The bill limits the scope of the presiding judge's oversight of the investigation. Current law allows the judge to limit the investigation or discharge the state grand jury if the judge determines the state grand jury is not conducting investigative activity within its jurisdiction. The legislation provides that an order limiting or ending a state grand jury investigation shall only be granted upon a finding of arbitrary action, compelling circumstances, or serious abuses of law or procedure by or before the state grand jury. The legislation provides that matters relating to the limitation of state grand jury investigations must be handled by the South Carolina Supreme Court in an expedited fashion. The legislation establishes revised protocols for the recusal of the Attorney General or solicitors from state grand jury investigations due to conflicts of interest and for the disqualification of the Attorney General from a state grand jury investigation. The process for expanding the scope of the state grand jury is amended to allow the AG to expand it only by notifying the presiding judge. Current law requires that the AG request the judge to expand the scope of inquiry. The legislation revises requirements for state grand jury matters to be conducted in secrecy, including a requirement that the court must grant an authorized request for disclosure made by the Attorney General in an expedited manner so as to not interfere with or delay the operation of the state grand jury. The legislation includes provisions for timely bond hearings and release when a bond is delivered to the incarcerating facility of individuals indicted by a state grand jury for bailable offenses.

The House returned **S.590** to the Senate with amendments. The legislation provides for enhancements to Act 158 of 2014, designated as "Emma's Law", which the General Assembly approved last year to combat drunk driving through a more expansive use of **IGNITION INTERLOCK DEVICES** installed on the vehicles of driving under the influence offenders that are designed to prevent a vehicle from being started and operated by someone who has consumed alcohol. The revisions of **S.590** include penalties targeting those who attempt to circumvent ignition interlock devices and provisions for making ignition interlock requirements more effective in addressing those who commit DUI offenses in their employer's vehicle.

The House returned **S.133**, a bill addressing **JUVENILE CRIMINAL RECORD EXPUNGEMENT**, to the Senate with amendments. The legislation allows automatic juvenile record expungement for status offenses. It also contains a procedure for expungement of non-violent crimes and multiples crimes at the request of an offender. Law enforcement agencies can file an objection to a requested expungement if the requestor has other charges pending or the charges are not eligible for a requested expungement. Under the legislation, an order of expungement is discretionary if the offense is for a non-violent crime or if the requestor had multiple criminal offenses, and an order for status offenses is automatic. Requestors are allowed file a petition for expungement at age 17 and no longer have to wait until age 18 to make their requests.

The House amended, approved, and sent the Senate **H.3909**, "**THE DYLAN PAUL MITCHELL BICYCLE AND PEDESTRIAN SAFETY ACT**". The legislation: strengthens drivers' responsibilities for yielding to pedestrians in a roadway crosswalk; establishes new penalties for drivers who cause serious physical injury or death by failing to exercise due care to avoid colliding with pedestrians and bicycles; expands requirements for drivers to exercise due care to avoid collisions with pedestrians and bicycles by also including wheelchairs as well as farm tractors or a similar vehicles designed primarily for farm use; includes bicycles with helper motors and electric-assist bicycles within provisions governing bicycles; and, better defines how bicycle lanes are to be marked.

The House amended, approved, and sent the Senate **H.4084**, a bill that specifies that **CHARTER SCHOOL BOARD MEMBERS, EMPLOYEES, AND STAFF ARE SUBJECT TO ETHICS AND GOVERNMENT ACCOUNTABILITY REQUIREMENTS** that are established in state law for public members and public employees. The legislation also revises charter school provisions to make specific provisions for the hiring of someone who serves as the designated school leader in charge of overseeing the daily operation of the school.

The House approved **S.441**, the "**GUARANTEED ASSET PROTECTION ACT**", and enrolled the bill for ratification. The legislation establishes a framework within which lenders may offer a guaranteed asset protection waiver as an option for consumers in a motor vehicle finance agreement that offers protection from loss should a motor vehicle be stolen or totaled in an accident. Under the contractual agreement of a guaranteed asset protection waiver, or GAP waiver, a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of the motor vehicle.

The House approved **S.375**, a bill relating to **LOCAL GOVERNMENT SURPLUS PUBLIC FUNDS DEPOSITS**, and enrolled the legislation for ratification. The legislation revises provisions relating to securing deposits of funds by counties, municipalities, school districts, and other political subdivisions, by establishing new conditions that allow a local governing body to work with one qualified public depository, rather than multiple banks or savings and loan associations, in maintaining the deposits of its surplus public funds.

The House concurred in Senate amendments to **H.3575** and enrolled the bill for ratification. The legislation revises the definition of solid waste under the state's Solid Waste Policy and Management Act to exclude **STEEL SLAG**, a product of the electric arc furnace steelmaking process, so long as the steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired

commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material.

The House concurred in Senate amendments to **H.3646**, a bill that deals with **PASSIVE SOIL-BASED ON-SITE DISPOSAL SYSTEMS** used to collect, treat, and discharge, or reclaim wastewater or sewage, and enrolled the legislation for ratification. Current law allows soil dispersal systems to be sized two-thirds of that required for a conventional gravel trench. Certain other restrictions are also imposed including requirements for manufacturers to maintain financial assurances and provisions that limit installation of these systems to single-family dwellings. As a result of these systems being used successfully for the past ten years, the legislation increases trench sizing from two-thirds to three-quarters of that required for a conventional gravel trench and repeals, as unnecessarily burdensome, requirements such as financial assurances and single-family dwelling limitations.

The House approved **S.304** and enrolled the bill for ratification. The legislation revises provisions relating to **CONTRACTS TO BUY POWER BETWEEN A JOINT POWER AND ENERGY AGENCY AND ITS CONSTITUENT MUNICIPALITIES**, so as to provide for the renewal or extension of contracts to buy power for additional periods not to exceed fifty years from the date of the renewal or extension. The revisions allow the Piedmont Municipal Power Association to extend its contractual arrangement with Duke Power regarding the Catawba Nuclear Station.

The House concurred in Senate amendments to **H.3847** and enrolled the legislation for ratification. The joint resolution provides that an applicant for **LICENSURE AS A SPEECH-LANGUAGE PATHOLOGIST ASSISTANT** who earned a bachelor's degree in speech-language pathology from a nationally accredited institution of higher education is exempt from the recently-enacted requirement of having a bachelor's degree from a regionally accredited institution of higher education.

HOUSE COMMITTEE ACTION

JUDICIARY

The House Judiciary Committee passed out the following bills on Tuesday, May 19, 2015:

The Committee approved, as amended, **S.199 PEANUTS LAW/ HIGHWAY WORKER ENDANGERMENT** to enhance penalties for motorists who endanger highway workers in designated work zones. It provides definitions of "highway work zone" and "highway worker." The bill adds criminal offenses for highway worker endangerment and provides penalties for violations. When a driver goes through or around a work zone in a lane not clearly designated for use by motor vehicles, or fails to obey traffic control devices controlling the flow of motor vehicles in a work zone, for any reason other than an emergency, avoidance of an obstacle, mechanical failure of a driver's motor vehicle, or the safety of another person, they have violated this law. A person cannot be cited or

convicted of highway worker endangerment unless a driver's act or omission occurs when one or more highway workers are in the highway work zone and these workers are in proximity of the area where a violation occurs. Penalties in the bill are based on the types of injury highway workers suffer. Points must be assessed against a violating driver's license and are also on a scale based on violation severity. Any fine imposed pursuant to this section is mandatory and cannot be waived. This bill repeals existing SC Code Ann. Section 56-5-1536, which covers driving in temporary work zones.

The Committee approved, with amendments, **S.250 CHILD MEDICAL RECORDS** to allow medical providers access to children's medical records in child abuse cases without the necessity of any court order or parental signature. With a written request, and without parental consent, any primary care physician must release --in compliance with applicable HIPPA provisions--records, images, photos, and all other health information to the consulting care physician, the hospital facility, and law enforcement. SCDSS is authorized to grant any South Carolina Children's Advocacy Medical Response System child abuse health care provider access to indicated abuse case records in order to evaluate a child for suspected abuse or neglect. These system child abuse health care providers are allowed to receive referral summaries and case outcomes for suspected child abuse or neglect that were sent to any contracted service agency or program. SCDSS must share any information gathered in an indicated investigation with children's primary or specialty health care providers. SCDSS is allowed to release allegation summaries and investigation outcomes for unfounded cases of child abuse to a South Carolina Children's Advocacy Medical Response System child abuse health care provider for evaluation of the child for suspected abuse or neglect.

The Committee approved, as amended, **H.3133 JUVENILE SEX OFFENSE REGISTRY REMOVAL AND EXPUNGEMENT** to require a juvenile offender, now aged 17 or older, to petition the family court in order to remove the offender's registration as a juvenile sex offender. When an offender petitions the family court for removal from the registry, the family court must find by clear and convincing evidence that the petitioner meets specified factors, including a favorable mental health evaluation [done at petitioner's expense], age, mitigating factors, aggravating factors, and other relevant factors in order to justify removing the registration requirement. The Attorney General and Circuit Solicitor have a right to be heard on these petitions.

The Committee approved, as amended, **H.3450 WHOLESALER BEER, WINE AND LIQUOR DELIVERIES**, to require beer, wine, and liquor wholesalers to receive, unload, and store this alcohol at a licensed wholesaler's licensed premises in South Carolina for twenty-four hours before delivering it to retailers or beer, wine, or liquor serving permit holders. Penalties are set forth for any violations.

The Committee approved, as amended, **H.3862 RETIRED JUDGE SCREENING**, to require all retired judges wanting to hold court to undergo a public hearing before the Judicial Merit Selection Commission. This hearing would occur every 2 years and would be followed by a General Assembly Joint Session election. This screening process can occur earlier than every 2 years if 10 members of the General Assembly petition the Judicial Merit Screening Commission for a screening to be done. Upon this petition, the retired judge will be screened at the next possible screening. These screenings typically take place every spring and fall. This bill also amends Section 14-1-215 to require retired

judges and justices to be confirmed every two years under the procedures set forth above.

The Committee approved **H.3972 DEVELOPMENT PLAN WAIVERS FOR DEEDING UNDEVELOPED PROPERTY** in order to allow deeds or other instruments to be filed in the Register of Deeds Office for undeveloped property without any prerequisite for land development plans to be submitted prior to deed filing.

MEDICAL, MILITARY, PUBLIC MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee met on Tuesday, May 19, 2015, and reported out two bills.

S.413, a bill relating to the **ADMINISTRATION OF VACCINES BY PHARMACISTS** was given a favorable recommendation from the full committee. The bill outlines that at the recommendation of the Joint Pharmacist Administered Vaccines Committee, the Board of Medical Examiners shall determine whether a specific vaccine is appropriate for administration by a pharmacist without a written order or prescription from a physician. The bill also provides for circumstances in which a pharmacy intern under direct supervision may administer vaccinations. The influenza vaccine may be administered to a person twelve years of age or older. This committee must submit its initial recommendations to the Board for approval and periodically thereafter as determined by the committee.

All vaccination records must be maintained in the pharmacy for a period of at least ten years from the date of the last vaccination for adults and at least thirteen years from the date of the last vaccination for minors. All documentation, records and copies may be stored electronically.

The full committee gave a favorable recommendation to **S.474**, legislation that adds and defines the term “authorized health care provider”, under the **RIGHTS OF MENTAL HEALTH PATIENTS**, as advanced practice registered nurses and physician assistants licensed in South Carolina and authorized to provide specific treatments, care, or services.

WAYS AND MEANS

The Ways and Means Committee met on May 20, 2015, and reported out several bills.

The committee gave a report of favorable with amendments on **H.4151**, a bill providing for **CIGARETTE TAX STAMPS**. The legislation establishes requirements for affixing stamps on cigarette packs as an indication of taxes paid. The legislation provides distributors a maximum \$125,000 tax credit against the tobacco tax for costs incurred in the purchase of a stamping machine and equipment. A 4.25% credit is provided to wholesalers as compensation for affixing the stamp.

The committee gave a favorable report on **S.153**, a bill to provide for the **EXTENSION OF A PROPERTY TAX EXEMPTION TO THE VEHICLE OF A DISABLED VETERAN'S SURVIVING SPOUSE**. This legislation revises the motor vehicle property tax exemption allowed for a disabled veteran, to provide that the tax exemption is allowed to the surviving spouse of the person on one private passenger vehicle owned or leased by the spouse for their lifetime or until the remarriage of the surviving spouse.

The committee gave a favorable report on **S.373**, a bill **EXTENDING THE TIME LIMIT FOR CHANGING SOUTH CAROLINA RETIREMENT SYSTEM BENEFICIARIES**. The legislation revises South Carolina Retirement System provisions relating to the optional forms of retirement allowances, so to allow a member to change the form of monthly payment within five years of a change in marital status, instead of one year.

The committee gave a report of favorable with amendments on **H.4145**, the "**SOUTH CAROLINA WORKFORCE DEVELOPMENT ACT**". The legislation creates a Coordinating Council for Workforce Development within the Department of Commerce to provide centralized oversight and comprehensive planning for the numerous job training initiatives housed in various state agencies as way of maximizing the benefits of these programs. The legislation provides for the State Board for Technical and Comprehensive Education, the Department of Education, the Department of Employment and Workforce, and the Department of Commerce to implement a Pathways Initiative in alignment with the Education and Economic Development Act to improve employment outcomes and address critical workforce development needs statewide. The State Board for Technical and Comprehensive Education and the Department of Education shall develop and implement a statewide Pathways to First Careers program to facilitate a seamless transition from education to employment in industries with critical workforce shortages. Of the funds allocated to the program: (1) at least thirty percent of the funds must be directed to school districts or multi-district career centers lacking adequate career development and workforce readiness programs with priority given to school districts or multi-district career centers with a poverty index of seventy five percent or greater; and (2) remaining funds must be used to establish programs in all regions of the state that confer the necessary skills and training to prepare students for careers in high demand fields and critical need positions in businesses and industries experiencing difficulty recruiting and retaining qualified applicants. The State Board for Technical and Comprehensive Education shall coordinate with the Department of Commerce, Department of Employment and Workforce, and the Department of Education to develop and implement a Pathways to New Opportunities program to provide subsidized career training and certification and job placement assistance to adults pursuing careers in high demand jobs in critical need industries throughout the state. The legislation establishes a Workforce Scholarships and Grants Fund administered by the State Board for Technical and Comprehensive Education to fund programs that award grants for tuition, fees, transportation, or textbook expenses that individuals to pursue career education. Tax Credits are established for those who make contributions to the Workforce Scholarships and Grants Fund. The legislation provides career pathways tax credits to encourage employers to conduct apprenticeship programs, particularly in the least economically developed counties.

The committee gave a favorable report on **S.350**. This bill provides a **FIVE-YEAR EXTENSION FOR THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT** so that these provisions governing community development

corporations and community development financial institutions are set to terminate on June 30, 2020, rather than June 30, 2015.

The committee gave a favorable report on **S.526**, a bill allowing for a **TAX PENALTY AMNESTY PERIOD** in order to encourage the voluntary disclosure and payment of taxes owed to the state. The legislation establishes authority for the Department of Revenue to periodically designate and administer an amnesty period during which the department may waive delinquent tax penalties and interest and not initiate a criminal investigation when delinquent returns are voluntarily filed and payment is made on all taxes owed.

The committee gave a report of favorable with amendments on **H.3088**. The legislation **REVISES PROVISIONS FOR HOW BUSINESSES MAY RAISE CAPITAL** to allow small businesses to take advantage of Internet-facilitated crowd funding that pools together many small investments.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4206 RESTRICTIONS WHILE CONDUCTING BLASTING ACTIVITIES

Rep. Kennedy

This bill sets minimum distances that a mine operator must maintain while conducting blasting activities.

H.4215 "MANAGED TIDAL IMPOUNDMENT PRESERVATION ACT"

Rep. Finlay

This bill enacts the Managed Tidal Impoundment Preservation Act, which provides that a property that is deemed eligible under a general permit issued by the United States Army Corp of Engineers is exempt from the permitting requirements in certain circumstances.

EDUCATION AND PUBLIC WORKS

S.703 SCHOOL LEADERS Sen. Hayes

This bill authorizes a school leader to be hired to assist with the daily operation of a charter school.

H.4202 NONCERTIFIED AND CERTIFIED TEACHERS Rep. Stringer

Among other things, this bill provides the qualifications for noncertified and certified teachers to teach core academic courses in charter schools and to provide that noncertified teachers must undergo the same background checks as do certified

teachers. This bill also further provides for enrollment preferences that may be given by particular charter schools.

JUDICIARY

H.4195 CITADEL ALUMNI ASSOCIATION Rep. Delleney

This bill revises SC Code Sections 59-121-10 and 59-121-20, to update references from “Association of the Citadel Men” to “Citadel Alumni Association” and its successors.

H.4196 DISSOLVING SPECIAL PURPOSE DISTRICTS Rep Delleney

This bill amends the SC Code by adding new Section 4-9-83. It allows a county governing body, through an appropriate ordinance, and subject to any referendum or consent requirements, to dissolve a special purpose district created by an act of the General Assembly. These governing bodies may do so when the special purpose district is contained wholly within their county boundaries, regardless of when the special purpose district was established.

H.4203 UNINCORPORATED PROPERTY CONTIGUOUS TO CITY LIMITS

Rep. McCoy

This bill clarifies the meaning of ‘contiguous’ unincorporated property within a special purpose district that can be considered adjacent to city limits for annexation purposes.

H.4208 “SOUTH CAROLINA HOMEOWNERS PROTECTION ACT OF 2015”

Rep. Atwater

This bill adds a comprehensive provision to the SC Code, Section 27-30-150, to be known as the South Carolina Homeowners Protection Act of 2015. This new law will apply to homeowner associations created after December 31, 2015. The bill has a comprehensive list of definitions. These associations will be empowered to enforce collection of assessments and other specified costs incurred against lots within the jurisdiction of the homeowners association. It also sets forth transparency for certain association financial records. Unpaid assessments can be enforced as liens against lots. These liens can be foreclosed in the same way mortgages are foreclosed in South Carolina. However, these foreclosures cannot be heard in magistrates’ court.

LABOR, COMMERCE AND INDUSTRY

H.4197 “SOUTH CAROLINA EMPLOYEE INJURY BENEFIT PLAN ALTERNATIVE” Rep. Sandifer

This bill enacts the “South Carolina Employee Injury Benefit Plan Alternative” to make provisions for employers to make use of new workplace injury insurance coverage for employees that allows for an exemption from the state’s Workers’ Compensation Laws.

Legislative Update, May 26, 2015

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