



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 concurred in Senate amendments to S.3, the **DOMESTIC VIOLENCE REFORM ACT**, and enrolled the bill for ratification. 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 establishes 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 still 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.

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.

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 amended Senate amendments to **H.3701**, the **GENERAL APPROPRIATION BILL** for Fiscal Year 2015-2016. Under the House amendments, the general appropriation bill reverts to substantially the budget legislation that was approved by the House earlier in the year with certain revisions. The House returned **H.3701** to the Senate which subsequently voted not to concur in the House amendments.

The House approved and sent the Senate **H.4266**, a joint resolution to provide for the **CONTINUING AUTHORITY TO PAY THE EXPENSES OF STATE GOVERNMENT** if

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the 2015-2016 Fiscal Year begins without a general appropriations act for that year in effect.

The House and Senate adopted **H.4274**, a resolution **EXTENDING THE SESSION OF THE GENERAL ASSEMBLY** beyond this year's June 4 deadline for final adjournment. The resolution allows the House and Senate to convene, beginning on Tuesday, June 16, 2015, to take up a limited list of matters including budget legislation, the Governor's vetoes, and the reports of conference committees that have been formed to address the differences between the House and Senate on particular pieces of legislation.

The House approved **S.153**, a bill to provide for the **EXTENSION OF A PROPERTY TAX EXEMPTION TO THE VEHICLE OF A DISABLED VETERAN'S SURVIVING SPOUSE**, and enrolled the legislation for ratification. 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 House returned **S.437** to the Senate with amendments and the Senate subsequently concurred in those amendments and enrolled the bill for ratification. The legislation provides for the "**JAMES B. EDWARDS CIVICS EDUCATION INITIATIVE**" which requires, as part of the high school curriculum United States Government required credits, that public school students take the United States citizenship civics test that the United States Citizenship and Immigration Services administers to prospective citizens to demonstrate knowledge and understanding of the fundamentals of American history and the principles and form of the United States government. Students are not required to pass this civics test, but those who do receive at least a passing grade may be recognized by the school district. Each public school, including charter schools, must report the percentage of students at or above the designated passing score on the test for inclusion on the school's report card.

The House approved **S.413**, a bill relating to the **ADMINISTRATION OF VACCINES BY PHARMACISTS**, and enrolled the legislation for ratification. The legislation provides 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 House approved **S.474** and enrolled the bill for ratification. The legislation 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.

The House approved **S.350** and enrolled the legislation for ratification. 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 House approved **S.373**, a bill **EXTENDING THE TIME LIMIT FOR CHANGING SOUTH CAROLINA RETIREMENT SYSTEM BENEFICIARIES**, and enrolled the legislation for ratification. 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 House approved **S.261**, legislation **EXPANDING PROVISIONS ALLOWING SENIORS TO ATTEND CLASSES AT THE STATE'S INSTITUTIONS OF HIGHER LEARNING TUITION FREE**, and enrolled the bill for ratification. The legislation provides that receiving compensation as a full-time employee no longer disqualifies someone from participating in the programs that allow someone who is at least sixty years old to attend classes without paying tuition at state-supported colleges and universities, and institutions under the jurisdiction of the State Board for Technical and Comprehensive Education.

The House approved **S.361** and enrolled the bill for ratification. This legislation revises provisions for **AUTOMOBILE INSURANCE RATE REDUCTIONS** for nonyouthful operators, so as to eliminate references to approved driver training refresher courses and to reduce from six hours to four hours the amount of classroom training required for approved driver training courses.

The House approved **S.666**, relating to **INSURANCE PREMIUM SERVICE COMPANIES**, and enrolled the bill for ratification. The legislation establishes conditions under which interest on mitigation loans may be included in premium service agreements. The legislation provides that insurance premium service companies may not write insurance or sell other services or commodities in connection with a premium service contract except as approved by the Director of the Department of Insurance, or his designee, for mitigation purposes.

The House approved **S.592** and enrolled the bill for ratification. The legislation establishes more **EXPANSIVE PROVISIONS FOR HUNTING COYOTES, FERAL HOGS AND ARMADILLOS** to reduce the rising populations of these nuisance animals.

The House approved **S.301**, a bill relating to the **REGULATION AND OVERSIGHT OF CERTIFIED PUBLIC ACCOUNTANTS**, and enrolled the legislation for ratification. The legislation revises the composition of the South Carolina Board of Accountancy by expanding its membership from nine to eleven, providing for each congressional district to be represented by one certified public accountant board member, and by requiring that one of the two at-large members selected from the general public be a licensed attorney. The legislation revises certified public accountant licensure requirements by providing authorization for applicants to undergo state and federal criminal records checks and by requiring continuing education or additional experience, as applicable, for applicants who delay submitting an application for a substantial period of time after passing the certified public accounting examination or obtaining accounting experience.

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The legislation revises qualifications for registration of a certified public accounting firm, so as to provide that a simple majority, rather than a supermajority, of the firm ownership must be certified public accountants. The legislation further provides qualifications and continuing professional education requirements for noncertified public accountant owners of these firms. In conducting investigation of complaints and disciplinary proceedings, the Department of Labor, Licensing and Regulation may require state and federal criminal records checks. The legislation establishes deadlines for filings applications for obtaining and renewing licenses and registration.

A conference committee was appointed to address the differences between the House and Senate on **S.47**, legislation that makes provisions for **EQUIPPING LAW ENFORCEMENT OFFICERS WITH BODY-WORN CAMERAS** that make audio and video recordings.

A conference committee was appointed to address the differences between the House and Senate on **S.183**, legislation enacting Uniform Law Commission recommendations regarding **HUMAN TRAFFICKING**.

The House returned **S.250**, a bill addressing **ACCESS TO MEDICAL RECORDS IN CASES OF SUSPECTED CHILD ABUSE OR NEGLECT**, to the Senate with amendments. The legislation establishes provisions that afford medical providers access to children's medical records in child abuse cases without the necessity of obtaining a court order or parental signature. The legislation provides that, with a written request, and without parental consent, any primary care physician must release --in compliance with applicable federal Health Insurance Portability and Accountability Act (HIPPA) provisions--records, images, photos, and all other health information to the consulting care physician, the hospital facility, and law enforcement. The South Carolina Department of Social Services 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 House returned **S.199** to the Senate with amendments. This legislation **ENHANCING PENALTIES FOR HIGHWAY WORKER ENDANGERMENT** is designated as "**PEANUT'S LAW**" in memory of Kenneth "Peanut" Long, Jr. who was only twenty-two years old when killed on August 12, 2013, by a driver that did not slow down in the road work zone where Peanut was performing his duties as a flag man for a road construction project in Williamsburg County. The legislation establishes enhanced criminal penalties for motorists who endanger highway workers in designated work zones including those engaged in road construction, maintenance, and repair as well as law enforcement officers directing traffic and emergency personnel responding to accidents or removing hazards from the roadway. Highway worker endangerment offenses apply to a driver who 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. 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 are structured so that they increase with the severity of injury or death that is caused by a violation. The assessment of points against a violator's driver's license is also based on the severity of injuries suffered by highway workers. Any fine imposed under these provisions is mandatory and cannot be waived. The legislation provides for additional percentages of magistrates and municipal court fines that are directed to the Department of Public Safety to defray the cost of hiring additional officers for work zone enforcement and training for the Safety Improvement Team.

The House returned **S.389**, a bill revising provisions governing **SOUTH CAROLINA BUSINESS DEVELOPMENT CORPORATIONS** which provide loans for small businesses, to the Senate with amendments. The legislation further provides for the manner in which these corporations are organized, regulated, and permitted to operate, notably by expanding the area of operations for a South Carolina business development corporation so that it can transact business not only this state, but also in the larger surrounding areas that comprise Federal Reserve Districts Five and Six, spanning primarily the Southeastern United States.

The House returned **S.78**, the "**FORFEITED LANDS EMERGENCY DEVELOPMENT ACT**", to the Senate with amendments. The legislation provides authority for a county council to petition the South Carolina Department of Revenue for the county's forfeited land commission to make use of emergency procedures when certain forfeited lands have a significant adverse effect on county ad valorem tax collections that severely affect continued essential public services in the county or a significant adverse effect on economic development and employment in the county resulting from the limited number of properties available for sale and improvement.

The House amended, approved, and sent the Senate, **H.3862**, a bill revising **ELIGIBILITY REQUIREMENTS FOR RETIRED JUDGES TO CONTINUE TO PRESIDE IN COURT**. The legislation provides that, in order to be eligible for appointment by the Chief Justice to serve, any retired justice or judge of this state must be elected by the General Assembly in joint session. The legislation also revises the screening process for retired judges who continue to serve in order to require these retired judges to be reviewed by the Judicial Merit Selection Commission and found qualified within two years of the appointment, rather than the current four years. When reviewing retired judges' qualifications for continued judicial service, the Judicial Merit Selection Commission is no longer authorized to waive the requirement for a public hearing.

The House amended, approved, and sent the Senate **H.3088**. The legislation **REVISES PROVISIONS FOR HOW BUSINESSES MAY RAISE CAPITAL** to allow businesses to take advantage of Internet-facilitated crowd funding that pools together many small investments. The revisions to state law are in keeping with federal provisions of the U.S. Securities and Exchange Commission (SEC).

The House amended, approved, and sent the Senate **H.3972**, a bill relating to **DEVELOPMENT PLAN WAIVERS FOR DEEDING UNDEVELOPED PROPERTY**. The

legislation makes provisions for 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.

The House amended and gave second reading approval to **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 House concurred in Senate amendments to **H.3304**, a bill creating the **LANDRUM FIRE AND RESCUE DISTRICT** in Greenville and Spartanburg Counties as a multi-county special purpose district, and enrolled the legislation for ratification.

HOUSE COMMITTEE ACTION

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee met on May 28th and passed out one bill. The Committee approved a strike and insert amendment to **H.3440 MOPEDS**.

The bill is a comprehensive revision to the laws regarding mopeds. (Currently there four definitions regarding mopeds.) The amended bill clarifies and cleans up the statutes by striking conflicting definitions (repeals all four existing and conflicting definitions for a moped throughout the Code) and consolidating sections.

This bill establishes a comprehensive definition that also adds electric mopeds. The new definition is in section one of the bill: 56-1-10 (26).

For the first time, mopeds will be required to be registered (but not titled). The person to whom the moped is "registered" will, for DMV purposes, be deemed the owner. Beginning July 1, 2018, a moped operated on the public road must: (1) be registered and licensed with the SC Dept. of Motor Vehicles; and (2) insured.

Maintains a definition of "Motor Vehicle" that does not "exclude mopeds". Keeps the definition that distinguishes a moped from motorcycle. Removes the confusion over "scooters" -- a motorized cycle can be only one of two things, either (1) a moped; or (2) a motorcycle.

The bill takes care to incorporate previous House passed bills, for example: requires the driver and passenger to wear a reflective vest; mandates a continuously flashing rear tail-light, no operation on roads over 55 MPH maximum speed limit; and, increases the

maximum speed of mopeds from 25 MPH to 35 MPH (mopeds may not be operated in excess of 35 MPH). The bill is effective six months after signing to give the SC DMV sufficient time to set-up for the new program with new registration and licensing.

MEDICAL, MILITARY, PUBLIC MUNICIPAL AFFAIRS

The Medical, Military, Municipal Affairs Committee met on Thursday, May 28, 2015 and reported out two bills.

S.176, a bill requiring **DEATH CERTIFICATES** to be electronically filed with the Bureau of Vital Statistics within three days after death, was given a favorable with amendment recommendation by the committee. The legislation also provides that medical certifications of cause of death must be completed by the patient's physician and returned to the funeral home director within forty-eight hours after death. The bill provides for exceptions and penalties for failure to meet deadlines.

The full committee gave a favorable with amendment recommendation to **S.341**, legislation requiring every hospital and birth center in the State to provide the parents of each newborn baby who is at high risk for **SICKLE CELL DISEASE OR SICKLE CELL TRAIT** delivered in the hospital or birth center, educational information on sickle cell disease and sickle cell trait and associated complications.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

S.484 NUTRITIONAL REQUIREMENTS IN SCHOOLS Sen. Shealy

This bill provides that all school food service meals and competitive foods provided in kindergarten through twelfth grade during the academic school year must meet or may exceed the nutritional requirements established by the United States Department of Agriculture Food and Nutrition Service. Moreover, this policy does not restrict the food that a parent or guardian may provide for student consumption at school and school fundraisers must be exempted from the requirements in this section.

JUDICIARY

H.4259 "TIMESHARE OWNERS PROTECTION ACT" Rep. Hamilton

This bill establishes the Timeshare Owners Protection Act to set out what comprises a timeshare, establish uniform procedures for timeshare owners who want to surrender their timeshare, and require the Department of Labor, Licensing, and Regulation to prosecute Act violations when requested to do so by the Real Estate Commission, the entity that will be tasked with implementing this Act.

H.4261 JUVENILE PROSECUTION REFORM Rep. Erickson

This bill amends South Carolina Code Section 63-19-820 covering incarcerating children in an adult jail or detention center. It eliminates the practice of trying children as adults in order to increase the length of time they may be held in adult incarceration for violation of court order regarding any status offense. Detention in an adult incarceration facility cannot total more than 6 hours. It also sets out the rights and processes for persons and entities that have been injured by delinquent acts of a child and want to institute legal proceedings. These children and their families must seek counseling prior to any family court finding that a child is incorrigible. It clarifies differences between status and criminal offenses, and makes changes to the necessary contents of any court order. It also changes the age and other factors to be considered when family courts review petitions for expungement and sets out a mandatory process for automatic expungement of juvenile status offense charges or findings.

H.4263 JUVENILE SEX OFFENDER REGISTRATION Rep. Erickson

This bill adds SC Code Ann. §23-3-430 to give family court judges discretion when considering whether a child fourteen years or older needs to be placed on the sex offender registry. It prohibits family courts from placing a child under fourteen years of age on the registry. Registrants reaching the age of 21 or older who had been placed on the sex offender list may petition for their removal. Public access to the juvenile sex offender registry is prohibited, except for access by law enforcement, victims, witnesses, schools, and other businesses that primarily serve children, women, or vulnerable adults as defined by law. The family court retains jurisdiction to review petitions requesting removal from the sex offender registry.

LABOR, COMMERCE AND INDUSTRY

H.4280 REGULATION AND OVERSIGHT OF REAL ESTATE BROKERS, SALESPERSONS, AND PROPERTY MANAGERS Rep. Sottile

This bill revises and reorganizes the provisions governing the licensure and regulation of real estate brokers, salespersons, and property managers.

MEDICAL, MILITARY, PUBLIC MUNICIPAL AFFAIRS

H.4262 TRAINING FOR FAMILY CHILDCARE HOME OPERATORS AND EMPLOYEES

Rep. Erickson

The legislation increases hours of training from two to ten for operators of family childcare homes, employees or contractors with operators of family childcare homes.

WAYS AND MEANS

H.4226 COMMERCIAL PROPERTY TAX REDUCTION Rep. Pope

This bill revises provisions that classify real property and establish assessment ratios for property tax purposes, so as to reduce the assessment ratio on commercial and other applicable real property from six percent of value to five percent.

H.4227 SALES TAX EXEMPTIONS Rep. Pope

This bill eliminates various sales and use tax exemptions and provides that the revenue generated must be credited to the General Reserve Fund. The legislation reestablishes the Joint Committee on Taxation to provide a cost benefit analysis on the state's sales tax exemptions.

H.4228 INDIVIDUAL INCOME TAX RELIEF Rep. Pope

This bill revises individual income tax provisions so as to eliminate the four, five, and six percent income tax brackets and instead tax those incomes at 3.75 percent.

H.4229 MANUFACTURING PROPERTY AND BUSINESS PERSONAL PROPERTY TAX RELIEF Rep. Pope

This bill revises property tax exemption provisions, so as to exempt from property tax 42.75 percent of the fair market value of manufacturing property and 42.75 percent of the fair market value of business personal property required to be reported and returned annually to the Department of Revenue or county auditors. These exemptions are phased in over the course of four years.

H.4230 SUPPLEMENTAL APPROPRIATION ACT Rep. White

This bill amends the annual General Appropriation Bill for Fiscal Year 2015-2016 to provide for supplemental appropriations.

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