**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3025**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Limehouse, Brady, Merrill, Parker and E.H. Pitts

Document Path: l:\council\bills\ms\7023ahb09.docx

Introduced in the House on January 13, 2009

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

Summary: Criminal sexual conduct

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2008 House Prefiled

12/9/2008 House Referred to Committee on **Judiciary**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑25

1/13/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑26

1/28/2009 House Member(s) request name added as sponsor: E.H.Pitts

**VERSIONS OF THIS BILL**

[12/9/2008](file:///p:\pprever\2009-10\3025_20081209.docx)

**A** **BILL**

TO AMEND SECTION 16‑11‑420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INTENT AND FINDINGS OF THE GENERAL ASSEMBLY REGARDING THE PROTECTION OF PERSONS AND PROPERTY ACT, SO AS TO INCLUDE IN THE PURVIEW OF THE ARTICLE THAT PERSONS HAVE A RIGHT TO PROTECT THEMSELVES, THEIR FAMILIES, AND OTHERS FROM THE COMMISSION OF A CRIMINAL SEXUAL CONDUCT OFFENSE; TO AMEND SECTION 16‑11‑430, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE, SO AS TO DEFINE THE TERM “CRIMINAL SEXUAL CONDUCT OFFENSE” FOR PURPOSES OF THE ARTICLE; AND TO AMEND SECTION 16‑11‑440, RELATING TO THE PRESUMPTION OF REASONABLE FEAR OF IMMINENT PERIL OF DEATH OR GREAT BODILY INJURY WHEN THE USE OF DEADLY FORCE IS JUSTIFIED, SO AS TO SPECIFICALLY INCLUDE THE REASONABLE FEAR OF THE COMMISSION OF A CRIMINAL SEXUAL CONDUCT OFFENSE.

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

SECTION 1. Section 16‑11‑420(B) of the 1976 Code, as added by Act 379 of 2006, is amended to read:

“(B) The General Assembly finds that it is proper for law‑abiding citizens to protect themselves, their families, and others from intruders,~~and~~ attackers, and sex offenders without fear of prosecution or civil action for acting in defense of themselves and others.”

SECTION 2. Section 16‑11‑430 of the 1976 as added by Act 379 of 2006, is amended to read:

“Section 16‑11‑430. As used in this article, the term:

(1) ‘Criminal sexual conduct offense’ means:

(i) criminal sexual conduct in the first degree is defined in Section 16‑3‑652;

(ii) criminal sexual conduct in the second degree as defined in Section 16‑3‑653;

(iii) criminal sexual conduct in the third degree as defined in Section 16‑3‑654; and

(iv) criminal sexual conduct with a minor in any degree as defined in Section 16‑3‑655.

(2) ‘Dwelling’ means a building or conveyance of any kind, including an attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging there at night.

~~(2)~~(3) ‘Great bodily injury’ means bodily injury which creates 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.

~~(3)~~(4) ‘Residence’ means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

~~(4)~~(5) ‘Vehicle’ means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.”

SECTION 3. Section 16‑11‑440 of the 1976 Code, as added by Act 379 of 2006, is amended to read:

“Section 16‑11‑440. (A) A person is presumed to have a reasonable fear of imminent peril of death,~~or~~ great bodily injury, or the commission of a criminal sexual conduct offense to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

(2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used; or

(3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement officer.

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death,~~or~~ great bodily injury, or the commission of a criminal sexual conduct offense to himself or another person or to prevent the commission of a violent crime as defined in Section 16‑1‑60.

(D) A person who unlawfully and by force enters or attempts to enter a person’s dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16‑1‑60.

(E) A person who by force enters or attempts to enter a dwelling, residence, or occupied vehicle in violation of an order of protection, restraining order, or condition of bond is presumed to be doing so with the intent to commit an unlawful act regardless of whether the person is a resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.”

SECTION 4. 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 5. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑