**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3828**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Tedder, T. Moore and Caskey

Companion/Similar bill(s): 888

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Introduced in the House on January 26, 2023

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

Summary: Youthful Offender Act eligibility

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/26/2023 House Introduced and read first time (House Journal‑page 9)

 1/26/2023 House Referred to Committee on **Judiciary** (House Journal‑page 9)

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**VERSIONS OF THIS BILL**

[01/26/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3828_20230126.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 24‑19‑10, RELATING TO DEFINITIONS FOR PURPOSES OF THE YOUTHFUL OFFENDER ACT, SO AS TO REDEFINE THE TERM “YOUTHFUL OFFENDER” TO CHANGE THE YOUTHFUL OFFENDER ELIGIBILITY REQUIREMENTS BY TYING ELIGIBILITY TO THE AGE AT THE TIME OF COMMISSION OF AN OFFENSE RATHER THAN THE TIME OF CONVICTION; AND BY AMENDING SECTION 24‑19‑50, RELATING TO POWERS OF COURTS UPON CONVICTION OF YOUTHFUL OFFENDERS, SO AS TO MAKE A CONFORMING CHANGE.

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

SECTION 1. Section 24‑19‑10(d) of the S.C. Code is amended to read:

 (d) “Youthful offender” means an offender who is:

 (i) under seventeen years of age at the time of the commission of an offense 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) seventeen but less than twenty‑five years of age at the time of conviction forthe commission of 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) under seventeen years of age at the time of the commission of an offense 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). If the offender committed burglary in the second degree pursuant to Section 16‑11‑312(B), 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) seventeen but less than twenty‑one years of age at the time of conviction forthe commission of the offense of burglary in the second degree (Section 16‑11‑312). If the offender committed burglary in the second degree pursuant to Section 16‑11‑312(B), 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) under seventeen years of age at the time of the commission of an offense and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), 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) seventeen but less than twenty‑five years of age at the time of conviction for committingthe commission of the offense of criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), 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.

SECTION 2. Section 24‑19‑50 of the S.C. Code is amended to read:

 Section 24‑19‑50. In the event of a conviction of a youthful offender the court may:

 (1) suspend the sentence and place the youthful offender on probation;

 (2) release the youthful offender to the custody of the division before sentencing for an observation and evaluation period of not more than sixty days. The observation and evaluation must be conducted by the Reception and Evaluation Center operating under joint agreement between the Department of Vocational Rehabilitation and the Department of Corrections and the findings and recommendations for sentencing must be returned with the youthful offender to the court for sentencing;

 (3) if the offender is under the age of twenty‑one at the time of the commission of an offense, without his consent, sentence the youthful offender indefinitely to the custody of the department for treatment and supervision pursuant to this chapter until discharged by the division, the period of custody not to exceed six years. If the offender is twenty‑one years of age but less than twenty‑five years of age at the time of the commission of an offense, he may be sentenced in accordance with this item if he consents in writing;

 (4) if the court finds that the youthful offender will not derive benefit from treatment, may sentence the youthful offender under any other applicable penalty provision. The youthful offender must be placed in the custody of the department;

 (5) not sentence a youthful offender more than once under this chapter.

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

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