**South Carolina General Assembly**

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**H. 4987**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J. Moore and Pendarvis

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Currently residing in the House

Summary: Protected tenants

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/31/2024 House Introduced and read first time (House Journal‑page 10)

 1/31/2024 House Referred to Committee on **Judiciary** (House Journal‑page 10)

 2/6/2024 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[01/31/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4987_20240131.docx)

[02/06/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4987_20240206.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 11 TO CHAPTER 40, TITLE 27 SO AS TO PROVIDE DEFINITIONS, TO PROVIDE FOR CERTAIN PROTECTED TENANT’S RIGHTS, TO PROVIDE FOR SITUATIONS IN WHICH A PROTECTED TENANT MAY TERMINATE A LEASE, TO PROVIDE FOR CERTAIN REPORTS OF DOMESTIC VIOLENCE, TO CREATE THE DOMESTIC VIOLENCE SHELTER FUND, AND TO PROVIDE THAT CERTAIN LAW ENFORCEMENT IS DIRECTED TO TAKE APPROPRIATE ACTION TO ASSIST DOMESTIC VIOLENCE VICTIMS.

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

SECTION 1. Chapter 40, Title 27 of the S.C. Code is amended by adding:

Article 11

Protected Tenants

 Section 27‑40‑1010. (A) This article only applies to leases or rental agreements created or renewed after December 31, 2024.

 (B) A person who is both a named individual and a protected tenant is not eligible for the protections under this article.

 Section 27‑40‑1020. As used in this article:

 (1) “Dating violence and abuse” means:

 (a) physical injury, serious physical injury, stalking, sexual assault, strangulation, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault occurring between persons who are or have been in a dating relationship; or

 (b) the infliction of fear of such imminent conduct, taken against a domestic animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the perpetrator is or has been in a dating relationship, when that person has a close bond of affection to the domestic animal.

 (2) “Department” means the South Carolina Department of Health and Human Services.

 (3) “Domestic violence and abuse” means:

 (a) physical injury, serious physical injury, stalking, sexual assault, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual assault, strangulation, or assault between family members or members of an unmarried couple; or

 (b) the infliction of fear of such imminent conduct, taken against a domestic animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a family member or member of an unmarried couple who has a close bond of affection to the domestic animal.

 (4) “Law enforcement officer” means a member of a lawfully organized police unit or police force of county, city, or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the State, as well as a sheriff, sworn deputy sheriff, campus police officer, law enforcement support personnel, public airport authority security officer, other public and federal peace officer responsible for law enforcement, special local peace officer, school resource officer, public school district security officer, and any other enforcement officer.

 (5) “Named individual” means a person identified in the protective orders described in this article as restrained from contact with the protected tenant.

 (6) “Professional” means a physician, osteopathic physician, physician assistant coroner, medical examiner, medical resident, medical intern, chiropractor, nurse, dentist, optometrist, emergency medical technician, paramedic, licensed mental health professional, therapist, cabinet employee, childcare personnel, teacher, school personnel, ordained minister or the denominational equivalent, victim advocate, or any organization or agency employing any of these professionals.

 (7) “Protected tenant” means a residential rental or leased housing tenant, applicant for tenancy, or a tenant with a minor household member, who is protected by a valid:

 (a) domestic violence order which restrains the adverse party from any unauthorized contact;

 (b) interpersonal protective order which restrains the adverse party from any unauthorized contact;

 (c) a residential rental or leased housing tenant, applicant for tenancy, or a tenant with a minor household member who is protected by a valid:

 (i) emergency protective order issued;

 (ii) temporary interpersonal protective order; or

 (iii) pretrial release no contact order.

 (8) “Victim” means an individual who is or has been abused by a spouse or former spouse or an intimate partner who is a member of an unmarried couple, or a member of a dating relationship.

 (9) “Victim advocate” means an individual at least eighteen years of age and of good moral character, who is employed by, or serves as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims, and includes a victim advocate employed by a municipality.

 Section 27‑40‑1030. (A) A landlord may not terminate, fail to renew, refuse to enter into, or otherwise retaliate in the renting or leasing of a residence because of the person’s status as a protected tenant.

 (B) It is a defense to an action for possession of a rented or leased residential property if the court determines that:

 (1) the tenant is a protected tenant; and

 (2) the notice to vacate is substantially based on acts which violated the tenant’s protective order or led to the issuance of a protective order, including an action for possession based on complaints of noise, disturbances, or repeated presence of peace officers.

 Section 27‑40‑1040. (A)(1) After informing the landlord of an intention to install a new lock, a protected tenant at his expense, may install a new lock to his dwelling by:

 (a) rekeying the lock if the lock is in good working condition; or

 (b) replacing the entire locking mechanism with a locking mechanism of equal or better quality than the lock being replaced.

 (2) the tenant shall provide a key to the new lock to the landlord upon request.

 (B) Regardless of any provision in the lease or rental agreement, the landlord may refuse to provide a key to the new lock to a named individual, even if the named individual is a party to the lease or rental agreement.

 (C) A named individual who has been excluded from leased or rented property under this article remains liable for rent.

 Section 27‑40‑1050. (A) For a protected tenant who obtains a valid protective order after entering into a lease or rental agreement, the lease or rental agreement may be terminated by providing the landlord with:

 (1) written notice of termination to be effective on a date stated in the notice that is at least thirty days after the landlord’s receipt of the notice; and

 (2) a copy of the valid protective order.

 (B) For a protected tenant who obtains a valid protective order before entering into a lease or rental agreement, the lease or rental agreement may be terminated by:

 (1) providing the landlord with written notice of termination to be effective on a date stated in the notice that is at least thirty days after the landlord’s receipt of the notice;

 (2) attaching a copy of the valid protective order; and

 (3) demonstrating a safety concern to the landlord that arises after execution of the lease.

 (C) Upon termination of a lease or rental agreement under this section, the released protected tenant must:

 (1) be liable for the rent due under the lease or rental agreement prorated to the effective date of the termination and payable at the time that would have been required by the terms of the lease or rental agreement;

 (2) not receive a negative credit entry, a negative character reference, or be liable for any other rent or fees due solely to the early termination of the tenancy; and

 (3) not be subject to any damages or penalties if a lease or rental agreement is terminated pursuant to this section fourteen or more days prior to occupancy.

 (D) Regardless of whether the named individual is a party to a lease or rental agreement terminated under this subsection, the named individual:

 (1) is considered to have interfered with the terminated lease or rental agreement between the landlord and tenant; and

 (2) must be civilly liable for all economic losses incurred by the landlord for the early lease termination, including unpaid rent, early lease termination fees, commissions and advertising costs incurred in reletting the premises, costs to repair damages to the premises, or any reductions in rent previously granted to the protected tenant.

 Section 27‑40‑1060. Regardless of conflicting provisions in a named individual’s rental agreement or lease, if a named individual and a protected tenant are cotenants, a landlord may:

 (1) refuse access to the property by a named individual unless the named individual is specifically permitted access by court order; and

 (2) pursue all available legal remedies against the named individual, including:

 (a) termination of the named individual's rental agreement or lease;

 (b) eviction of the named individual, whether or not a lease or rental agreement between the landlord and the named individual exists; and

 (c) action for damages against the named individual for any unpaid rent owed by the named individual or any damages resulting from a violation of a valid protective order.

 Section 27‑40‑1070. Notwithstanding the release of a protected tenant or an exclusion of a named individual from a lease or rental agreement under this article, if there are any remaining tenants residing in the dwelling unit, the tenancy shall continue for those tenants.

 Section 27‑40‑1080. A landlord is immune from civil liability if the landlord in good faith acts in accordance with this article.

 Section 27‑40‑1090. (A) A landlord may not include in a residential rental agreement or lease for housing a provision authorizing the landlord to terminate the agreement or to impose a penalty on a tenant for requests made by the tenant for assistance from peace officers or other assistance in response to emergencies.

 (B) A residential rental agreement or lease provision prohibited by this article is unenforceable. If a landlord enforces a rental agreement or lease containing provisions known by the landlord to be prohibited by this article, the tenant may recover actual damages sustained by the tenant, reasonable attorney’s fees, and all other costs incurred in bringing the action, and punitive damages of not more than two months of periodic rent.

 (C) This section applies only to leases or rental agreements created or renewed after December 31, 2024.

 Section 27‑40‑1100. (A) Upon the request of a victim, a professional shall report an act of domestic violence and abuse or dating violence and abuse to a law enforcement officer.

 (B) A professional who makes a report under this article shall discuss the report with the victim prior to contacting a law enforcement officer.

 Section 27‑40‑1110. (A) A professional shall report to a law enforcement officer his belief that the death of a victim with whom he has had a professional interaction is related to domestic violence and abuse or dating violence and abuse.

 (B) Nothing in this article shall relieve a professional of the duty to report any known or suspected abuse, neglect, or dependency of a child.

 (C) Nothing in this article shall relieve a professional of the duty to report to the authorities any known or suspected abuse, neglect, or exploitation of a person eighteen years of age or older who because of mental or physical dysfunction is unable to manage his own resources, carry out the activity of daily living, or protect himself from neglect, exploitation, or a hazardous or abusive situation without assistance from others.

 Section 27‑40‑1120. (A) If a law enforcement officer receives a report of domestic violence and abuse or dating violence and abuse, the officer shall use all reasonable means to provide assistance as required by law.

 (B) A law enforcement officer who responds to a report of domestic violence and abuse or dating violence and abuse shall use the necessary forms to document any information or injuries related to the domestic violence and abuse or dating violence and abuse.

 (C) A completed form must be kept in the records of the law enforcement officer’s agency of employment.

 (D) If the form includes information that only relates to a victim, the form may not be forwarded to the department.

 (E) If the form includes information on known or suspected child abuse or neglect or the abuse or neglect of an elderly or disabled adult, the form must be forwarded to the department.

 Section 27‑40‑1130. (A) If a professional has reasonable cause to believe that a victim with whom he has had a professional interaction has experienced domestic violence and abuse or dating violence and abuse, the professional shall provide the victim with educational materials related to domestic violence and abuse or dating violence and abuse including information about how he may access regional domestic violence programs or rape crisis centers and information about how to access protective orders.

 (B) A nonprofit corporation designated by the department as a primary service provider for domestic violence shelter, crisis, and advocacy services in the district in which the provider is located shall make the educational materials required under this section available on its website or in print form for professionals to provide to possible victims of domestic violence and abuse or dating violence and abuse.

 Section 27‑40‑1140. (A) A professional knowingly or wantonly violating the provisions of this article is guilty of a misdemeanor and must be penalized. Each violation shall constitute a separate offense.

 (B) Anyone acting upon reasonable cause in complying with the provisions of this article has immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any judicial proceeding resulting from such compliance.

 (C) Neither the psychotherapist‑patient privilege nor the husband‑wife privilege is a ground for excluding evidence regarding the domestic violence and abuse or dating violence and abuse or the cause thereof in any judicial proceeding resulting from a report pursuant to this article.

 (D) All information that identifies a current or former client of a domestic violence program is confidential and may not be disclosed by any person except as provided by law. The department shall have access to client information relating to any domestic violence program for the limited purpose of monitoring the program.

 Section 27‑40‑1150. (A) There is created a trust and agency account in the State Treasury to be known as the “Domestic Violence Shelter Fund”. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars from each twenty‑four dollars collected during the previous month from the issuance of marriage licenses. The fund must be administered by the Department of Revenue. The Department of Health and Human Services shall use the funds for the purpose of providing protective shelter services for domestic violence victims.

 (B) The Department of Health and Human Services shall designate one nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located.

 Section 27‑40‑1160. (A) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person may be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

 (B) Every hospital in this State which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who must be a registered nurse licensed in this State, is available on call twenty‑four hours each day for the examinations of persons seeking treatment as victims of sexual offenses.

 (C) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility. An examination under this section shall apply only to an examination of a victim.

 (D) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination includes, but is not limited to:

 (1) basic treatment and sample gathering services; and

 (2) laboratory tests, as appropriate.

 (E) Each victim must be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling may not include abortion counseling or referral information.

 (F) Each victim must be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.

 (G) Notwithstanding another provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

 (H) The examinations provided in accordance with this section must be paid for by the State.

 (I) No charge may be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim’s insurance carrier, or this State.

 (J)(1) Each victim has the right to determine whether a report or other notification must be made to law enforcement, except where reporting of abuse and neglect of a child or a vulnerable adult. No victim may be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.

 (2) If the victim chooses to report to law enforcement, the hospital shall notify law enforcement within twenty‑four hours.

 (3)(a) All samples collected during an exam where the victim has chosen not to immediately report to law enforcement must be stored, released, and destroyed, if appropriate, as prescribed by law.

 (b) Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so.

 (c) All samples collected pursuant to this section shall be stored for at least one year from the date of collection in accordance with the administrative regulation promulgated pursuant to this section.

 (d) Samples collected during exams where the victim chose not to report immediately or file a report within one year after collection may be destroyed. The victim must be informed of this process at the time of the examination. No hospital, sexual assault examination facility, or designated storage facility is liable for destruction of samples after the required storage period has expired.

 Section 27‑40‑1170. (A) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.

 (B) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim including, but not limited to:

 (1) remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;

 (2) assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

 (3) advising the victim immediately of the rights available to them.

 (C) Orders of protection must be enforced in any county of this State.

 (D) Officers acting in good faith under this article are immune from criminal and civil liability.

SECTION 2. This act takes effect upon approval by the Governor.

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