

## Session 116 - (2005-2006)

### **S 1153 General Bill, By Ritchie, Fair and Verdin**

**Summary:** Sex offender treatment, criminal sexual conduct

A BILL TO AMEND SECTION 16-3-655, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL SEXUAL CONDUCT WITH MINORS, SO AS TO PROVIDE THAT CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE OCCURS WHEN COMMITTED AGAINST A CHILD LESS THAN TWELVE, RATHER THAN ELEVEN, YEARS OF AGE, TO ADJUST THE AGE RELATED TO CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE ACCORDINGLY, TO PROVIDE THAT CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE WITH A MINOR PERPETRATED BY A PERSON IN A FAMILIAL POSITION OR POSITION OF AUTHORITY OCCURS WHEN THE VICTIM IS EIGHTEEN, RATHER THAN SEVENTEEN YEARS OF AGE, TO REQUIRE WHEN IMPOSING THESE SENTENCES, THE COURT ALSO SHALL REQUIRE THE DEFENDANT, WHEN RELEASED FROM PRISON FOR CONVICTION OF FIRST OR SECOND DEGREE CRIMINAL SEXUAL CONDUCT WITH A MINOR, TO BE PLACED ON PROBATION AND ON AN ACTIVE ELECTRONIC MONITORING DEVICE FOR THE DURATION OF TIME HE IS REQUIRED TO BE ON THE SEXUAL ABUSE REGISTRY, AND TO PROVIDE THAT A PERSON WHO VIOLATES THIS PROBATION MUST BE IMPRISONED FOR UP TO TWENTY-FIVE PERCENT OF HIS ORIGINAL SENTENCE; TO AMEND SECTIONS 16-15-395, 16-15-405, AND 16-15-410, ALL AS AMENDED, ALL RELATING TO SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE SEXUALLY EXPLICIT NUDITY AS A PROHIBITED ACT, TO PROVIDE THAT MISREPRESENTATION OF AGE IS NOT A DEFENSE TO SEXUAL EXPLOITATION OF A MINOR, TO CLARIFY THAT THE MINIMUM SENTENCE FOR FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR IS MANDATORY AND MAY NOT BE SUSPENDED OR PROBATION GRANTED, TO ESTABLISH A FELONY FOR COMMITTING SEXUAL EXPLOITATION OF A CHILD UNDER TWELVE YEARS OF AGE AND TO PROVIDE A MANDATORY MINIMUM SENTENCE OF TEN YEARS, AND TO REQUIRE WHEN IMPOSING THESE SENTENCES, THE COURT ALSO SHALL REQUIRE THE DEFENDANT, WHEN RELEASED FROM PRISON FOR CONVICTION OF FIRST OR SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR, TO BE PLACED ON PROBATION AND ON AN ACTIVE ELECTRONIC MONITORING DEVICE FOR THE DURATION OF TIME HE IS REQUIRED TO BE ON THE SEXUAL ABUSE REGISTRY, AND TO PROVIDE THAT A PERSON WHO VIOLATES THIS PROBATION MUST BE IMPRISONED FOR UP TO TWENTY-FIVE PERCENT OF HIS ORIGINAL SENTENCE; TO ADD SECTION 24-13-180 SO AS TO REQUIRE THAT SEX OFFENDER TREATMENT PROVIDED TO A PRISONER INCARCERATED AT THE DEPARTMENT OF CORRECTIONS MUST BE PROVIDED BY A CERTIFIED SEX OFFENDER TREATMENT PROVIDER; TO ADD SECTION 24-21-445 SO AS TO REQUIRE THE COURT TO ORDER THE MAXIMUM PERIOD OF PROBATION IF A SEX OFFENDER IS PLACED ON PROBATION AND TO PROVIDE THAT ANY SEX OFFENDER TREATMENT ORDERED FOR SUCH AN OFFENDER MUST BE PROVIDED BY A CERTIFIED SEX OFFENDER TREATMENT PROVIDER; TO ADD SECTION 24-21-655 SO AS TO REQUIRE THAT IF, AS A CONDITION OF PAROLE, A PRISONER MUST RECEIVE SEX OFFENDER TREATMENT, THE TREATMENT MUST BE PROVIDED BY A CERTIFIED SEX OFFENDER TREATMENT PROVIDER; TO ADD SECTION 44-9-170 SO AS TO REQUIRE THE DEPARTMENT OF MENTAL HEALTH TO ESTABLISH A CERTIFICATION PROCESS FOR SEX OFFENDER TREATMENT PROVIDERS AND TO PROVIDE THAT SEX OFFENDER TREATMENT ORDERED BY THE COURT OR PROVIDED BY THE STATE MUST BE PROVIDED BY A CERTIFIED TREATMENT PROVIDER; TO AMEND SECTION 44-48-30, AS AMENDED, RELATING TO DEFINITIONS IN THE SEXUALLY VIOLENT PREDATOR ACT, SO AS TO ADD ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE TO THE DEFINITION OF A SEXUALLY VIOLENT PREDATOR IF THE ASSAULT WAS A SEXUAL OFFENCE AND TO DEFINE "PROBABLE CAUSE"; TO AMEND SECTION 44-48-80, AS AMENDED, RELATING TO HEARINGS TO DETERMINE WHETHER THERE IS PROBABLE CAUSE THAT THE NAMED PERSON IS A SEXUALLY VIOLENT PREDATOR, SO AS TO PROVIDE THAT IN MAKING THIS DETERMINATION, THE COURT MAY NOT CONSIDER THE FACT THAT A MENTAL HEALTH EVALUATION HAS NOT BEEN CONDUCTED, TO PROVIDE THAT THE NAMED PERSON MAY NOT CHALLENGE THE VALIDITY OF HIS PRIOR CRIMINAL OR INSTITUTIONAL CONVICTIONS, TO PROVIDE THAT IF THE NAMED PERSON REFUSES TO COOPERATE WITH EVALUATION AND TREATMENT, EVIDENCE OF THIS REFUSAL IS ADMISSIBLE, AND TO PROVIDE THAT THE COURT MAY BAR THE NAMED PERSON FROM INTRODUCING EXPERT PSYCHIATRIC EVIDENCE; AND TO PROVIDE THAT THE DEPARTMENT OF MENTAL HEALTH SHALL CONVENE A COMMITTEE TO STUDY THE SEXUALLY VIOLENT PREDATOR ACT TO REVIEW AND EVALUATE THE OPERATION AND EFFECTIVENESS OF THE ACT, TO PROVIDE FOR ITS MEMBERS, AND TO PROVIDE THAT THE COMMITTEE SHALL SUBMIT A REPORT AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2008.

**02/16/06 Senate Introduced and read first time SJ-8**

**02/16/06 Senate Referred to Committee on Judiciary SJ-8**

02/21/06    Senate    Referred to Subcommittee: Hutto (ch), Jackson, Knotts, Bryant