

## Session 116 - (2005-2006)

### H 3649 General Bill, By Haskins and G.A. Brown

*Similar (H 3143, H 3984)*

**Summary:** Criminal domestic violence

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 14-1-240 SO AS TO REQUIRE MAGISTRATES, FAMILY COURT JUDGES, AND CIRCUIT COURT JUDGES TO RECEIVE CONTINUING EDUCATION ANNUALLY ON DOMESTIC VIOLENCE; TO AMEND SECTION 20-3-10, RELATING TO GROUNDS FOR DIVORCE, SO AS TO FURTHER SPECIFY THAT PHYSICAL CRUELTY INCLUDES PHYSICAL VIOLENCE AND CONDUCT THAT ENDANGERS ONE'S PHYSICAL OR PSYCHOLOGICAL WELL-BEING; TO AMEND SECTION 22-5-530, AS AMENDED, RELATING TO ALLOWING DEFENDANTS IN CERTAIN CASES TO DEPOSIT A SUM OF MONEY WITH THE MAGISTRATE OR MUNICIPAL COURT IN LIEU OF POSTING A RECOGNIZANCE BOND, SO AS TO REQUIRE INDIVIDUALIZED HEARINGS IN CASES WHERE THE ACCUSED MAY POSE A THREAT TO THE PUBLIC OR TO AN INDIVIDUAL VICTIM; TO ADD SECTION 16-25-75 SO AS TO REQUIRE THE COURT TO MAKE SPECIFIC FINDINGS OF FACT REGARDING THE NATURE AND EXTENT OF A CRIMINAL DOMESTIC VIOLENCE OFFENSE BEFORE RELEASING THE DEFENDANT ON BOND OR SUSPENDING THE SENTENCE; TO ADD SECTION 16-25-67 SO AS TO PROVIDE THAT A CRIMINAL DOMESTIC VIOLENCE CHARGE MAY NOT BE DROPPED AGAINST A PERSON IF THE VICTIM OR VICTIM'S ATTORNEY IS NOT PRESENT AT THE HEARING; TO AMEND SECTION 20-4-40, AS AMENDED, RELATING TO PETITIONS FOR ORDERS OF PROTECTION FROM DOMESTIC VIOLENCE, SO AS TO PROVIDE THAT IF A DIVORCE OR SEPARATE SUPPORT AND MAINTENANCE ACTION IS FILED AND A PETITION FOR AN ORDER OF PROTECTION IS FILED, THE ORDER FOR PROTECTION MUST BE INDEPENDENTLY PROCESSED, TO PROHIBIT ISSUANCE OF MUTUAL RESTRAINING ORDERS, TO AUTHORIZE SPECIAL NO FAULT PROTECTION ORDERS AGAINST VICTIMS, AND TO REQUIRE THE ORDER TO INFORM THE RESPONDENT OF THE RIGHT TO REQUEST A HEARING IF THE ORDER IS AUTOMATICALLY EXTENDED BY THE FILING OF AN AFFIDAVIT; TO ADD SECTION 23-1-240 SO AS TO REQUIRE A LAW ENFORCEMENT OFFICER EMPLOYED BY THE STATE OR A SUBDIVISION OF THE STATE WHO IS CONVICTED OF CRIMINAL DOMESTIC VIOLENCE TO BE TERMINATED FROM SUCH EMPLOYMENT; TO AMEND SECTION 17-22-50, AS AMENDED, RELATING TO PERSONS PROHIBITED FROM PARTICIPATING IN PRETRIAL INTERVENTION, SO AS TO INCLUDE A PERSON CHARGED WITH CRIMINAL DOMESTIC VIOLENCE; TO AMEND SECTION 16-25-65, AS AMENDED, RELATING TO CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO PROHIBIT A PERSON CHARGED WITH SUCH AN OFFENSE FROM PLEADING TO ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE UNLESS AUTHORIZED BY THE COURT; TO AMEND SECTIONS 22-5-910, AS AMENDED, 22-5-920, AND 20-7-8525, ALL RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO PROHIBIT EXPUNGEMENT OF SUCH RECORDS FOR CRIMINAL DOMESTIC VIOLENCE OFFENDERS CONVICTED IN MAGISTRATE'S COURT OR MUNICIPAL COURT, FOR SUCH OFFENSES COMMITTED BY YOUTHFUL OFFENDERS, AND FOR SUCH OFFENSES COMMITTED BY JUVENILES; TO AMEND SECTION 56-7-15, RELATING TO EFFECTING AN ARREST FOR CRIMINAL DOMESTIC VIOLENCE, SO AS TO REQUIRE LAW ENFORCEMENT TO FILE AN INCIDENT REPORT AND TO PROHIBIT THE USE OF UNIFORM TRAFFIC TICKETS TO EFFECT SUCH AN ARREST; TO AMEND SECTION 20-4-60, RELATING TO MUTUAL ORDERS OF PROTECTION FROM DOMESTIC ABUSE, SO AS TO PROHIBIT ISSUANCE OF SUCH ORDERS, TO PROVIDE THAT AN ORDER OF PROTECTION MAY NOT BE ISSUED AGAINST A PERSON NOT CHARGED WITH DOMESTIC VIOLENCE, AND TO SPECIFY CIRCUMSTANCES FOR ISSUING A RESTRAINING ORDER TO PROTECT A VICTIM FROM FURTHER ABUSE; TO AMEND SECTION 20-4-70, AS AMENDED, RELATING TO THE TERMS AND CONDITIONS OF ORDERS OF PROTECTION FROM DOMESTIC VIOLENCE, SO AS TO PROVIDE FOR AN AUTOMATIC SIX MONTH EXTENSION UPON THE FILING OF AN AFFIDAVIT SEEKING AN EXTENSION AND TO PROVIDE NOTICE AND AN OPPORTUNITY FOR A HEARING; TO AMEND SECTION 20-4-40, RELATING TO CONDITIONS AND PROCEDURES FOR ISSUING ORDERS OF PROTECTION, SO AS TO PROVIDE THAT A HEARING MAY BE REQUESTED IF SUCH AN ORDER IS EXTENDED BY THE FILING OF AN AFFIDAVIT; TO AMEND SECTION 16-25-20, AS AMENDED, RELATING TO PENALTIES FOR CRIMINAL DOMESTIC VIOLENCE OFFENSES, SO AS TO REVISE FINES AND TERMS OF IMPRISONMENT, TO REQUIRE A MANDATORY MINIMUM THIRTY-DAY SENTENCE FOR SECOND OFFENSES, WHICH MAY BE SERVED ON WEEKENDS OR AT NIGHT, TO INCREASE FROM NINETY DAYS TO ONE HUNDRED TWENTY DAYS THE MINIMUM SENTENCE FOR A THIRD OFFENSE, TO PROHIBIT A PERSON CHARGED WITH CRIMINAL DOMESTIC VIOLENCE FROM PLEADING GUILTY TO SIMPLE ASSAULT UNLESS AUTHORIZED BY THE COURT, AND TO PROVIDE THAT VIOLATIONS OF CERTAIN CITY AND COUNTY DOMESTIC VIOLENCE ORDINANCES ARE CONSIDERED VIOLATIONS OF SECTION 16-25-20; TO AMEND SECTION 16-25-65, AS AMENDED, RELATING TO CRIMINAL DOMESTIC VIOLENCE

OF A HIGH AND AGGRAVATED NATURE, SO AS TO ESTABLISH A MINIMUM ONE YEAR SENTENCE, TO PROHIBIT A PERSON CHARGED WITH SUCH AN OFFENSE FROM PLEADING GUILTY TO ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE UNLESS AUTHORIZED BY THE COURT, AND TO PROVIDE THAT VIOLATIONS OF CERTAIN CITY AND COUNTY DOMESTIC VIOLENCE ORDINANCES ARE CONSIDERED VIOLATIONS OF SECTION 16-25-65; TO ADD SECTION 16-25-95 SO AS TO ESTABLISH A FELONY FOR POSSESSION OF A FIREARM BY A PERSON WHO HAS BEEN CONVICTED OF CRIMINAL DOMESTIC VIOLENCE; AND TO ADD SECTION 20-4-63, SO AS TO PROVIDE THAT A PERSON FILING A PETITION SEEKING AN ORDER FOR PROTECTION FROM DOMESTIC ABUSE IS NOT REQUIRED TO PAY THE FILING FEE REQUIRED IN CIVIL ACTIONS.

**02/24/05    House    Introduced and read first time HJ-15**  
**02/24/05    House    Referred to Committee on Judiciary HJ-17**  
**04/12/05    House    Member(s) request name added as sponsor: G.A.Brown**