

Session 115 - (2003-2004)

H 4789 General Bill, By Cobb-Hunter, Leach, Haskins and Young

Summary: Protect Our Women in Every Relationship (POWER) Act; domestic violence

A BILL TO ENACT THE PROTECT OUR WOMEN IN EVERY RELATIONSHIP (POWER) ACT BY AMENDING 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 ENTERING INTO RECOGNIZANCE, SO AS TO REQUIRE INDIVIDUALIZED HEARINGS IN CASES WHERE THE ACCUSED MAY POSE A THREAT TO THE PUBLIC OR 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 WAS NOT PRESENT AT THE HEARING AND TO REQUIRE CRIMINAL DOMESTIC VIOLENCE OFFENCES TO BE TRIED IN GENERAL SESSIONS COURT; 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 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 16-25-20, RELATING TO CRIMINAL DOMESTIC VIOLENCE, SO AS TO PROHIBIT A PERSON CHARGED WITH SUCH AN OFFENSE FROM PLEADING GUILTY TO SIMPLE ASSAULT UNLESS AUTHORIZED BY THE COURT; 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 FOR 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 20-4-70, 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 16-25-20, RELATING TO PENALTIES FOR CRIMINAL DOMESTIC VIOLENCE OFFENSES, SO AS TO REVISE FINES AND TERMS OF IMPRISONMENT AND TO REQUIRE MANDATORY MINIMUM SENTENCES, WHICH MAY BE SERVED ON WEEKENDS OR AT NIGHT; 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 SENTENCE; AND TO AMEND SECTION 20-7-420, AS AMENDED, RELATING TO THE JURISDICTION OF THE FAMILY COURT, SO AS TO PROVIDE THAT A FAMILY COURT JUDGE MAY APPOINT GUARDIANS AD LITEM IN DOMESTIC VIOLENCE MATTERS.

02/18/04 House Introduced and read first time HJ-56

02/18/04 House Referred to Committee on Judiciary HJ-58

04/01/04 House Member(s) request name added as sponsor: Young