**South Carolina General Assembly**

118th Session, 2009-2010

**A289, R324, H4202**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Mitchell, Long, Dillard, Cobb‑Hunter and Sellers

Document Path: l:\council\bills\ms\7440ahb10.docx

Introduced in the House on January 12, 2010

Introduced in the Senate on April 20, 2010

Last Amended on June 2, 2010

Passed by the General Assembly on June 3, 2010

Governor's Action: June 11, 2010, Signed

Summary: Trafficking in persons

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/17/2009 House Prefiled

 11/17/2009 House Referred to Committee on **Judiciary**

 1/12/2010 House Introduced and read first time [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-12-10.docx)‑29

 1/12/2010 House Referred to Committee on **Judiciary** [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C01-12-10.docx)‑29

 1/13/2010 House Member(s) request name added as sponsor: Dillard

 1/20/2010 House Member(s) request name added as sponsor: Cobb‑Hunter

 3/24/2010 House Committee report: Favorable with amendment **Judiciary** [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-24-10.docx)‑26

 4/13/2010 House Member(s) request name added as sponsor: Sellers

 4/15/2010 House Amended [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-15-10.docx)‑40

 4/15/2010 House Read second time [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-15-10.docx)‑41

 4/15/2010 House Unanimous consent for third reading on next legislative day [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-15-10.docx)‑41

 4/16/2010 House Read third time and sent to Senate [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-16-10.docx)‑2

 4/20/2010 Senate Introduced and read first time [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C04-20-10.docx)‑5

 4/20/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C04-20-10.docx)‑5

 4/28/2010 Senate Referred to Subcommittee: Knotts (ch), Massey, Coleman

 5/19/2010 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-19-10.docx)‑32

 5/20/2010 Senate Committee Amendment Adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-20-10.docx)‑53

 5/24/2010 Scrivener's error corrected

 6/2/2010 Senate Amended [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C06-02-10.docx)‑130

 6/2/2010 Senate Read second time [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C06-02-10.docx)‑130

 6/3/2010 Senate Read third time and returned to House with amendments

 6/3/2010 House Concurred in Senate amendment and enrolled [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-03-10.docx)‑41

 6/3/2010 House Roll call Yeas‑102 Nays‑0 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-03-10.docx)‑41

 6/7/2010 Ratified R 324

 6/11/2010 Signed By Governor

 7/19/2010 Effective date 06/11/10

 7/21/2010 Act No. 289

**VERSIONS OF THIS BILL**

[11/17/2009](file:///p%3A%5Cpprever%5C2009-10%5C4202_20091117.docx)

[3/24/2010](file:///p%3A%5Cpprever%5C2009-10%5C4202_20100324.docx)

[4/15/2010](file:///p%3A%5Cpprever%5C2009-10%5C4202_20100415.docx)

[5/19/2010](file:///p%3A%5Cpprever%5C2009-10%5C4202_20100519.docx)

[5/20/2010](file:///p%3A%5Cpprever%5C2009-10%5C4202_20100520.docx)

[5/24/2010](file:///p%3A%5Cpprever%5C2009-10%5C4202_20100524.docx)

[6/2/2010](file:///p%3A%5Cpprever%5C2009-10%5C4202_20100602.docx)

(A289, R324, H4202)

**AN ACT** **TO AMEND SECTION 16‑1‑60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VIOLENT CRIMES, SO AS TO ADD CERTAIN OFFENSES TO THE LIST OF VIOLENT CRIMES INCLUDING TRAFFICKING IN PERSONS; TO AMEND SECTION 16‑1‑90, RELATING TO CRIME CLASSIFICATION, SO AS TO ADD TRAFFICKING IN PERSONS TO THE LIST OF CLASS A FELONIES AND TO DELETE SECTION 16‑3‑930 FROM THE LIST OF CLASS D FELONIES; TO AMEND SECTION 16‑3‑20, AS AMENDED, RELATING TO MURDER, SO AS TO ADD TRAFFICKING IN PERSONS TO THE LIST OF STATUTORY AGGRAVATING CIRCUMSTANCES FOR WHICH A PERSON MAY RECEIVE THE DEATH PENALTY; TO AMEND SECTION 16‑3‑652 AND SECTION 16‑3‑655, AS AMENDED, RELATING TO CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND CRIMINAL SEXUAL CONDUCT WITH A MINOR, RESPECTIVELY, BOTH SO AS TO ADD TRAFFICKING IN PERSONS TO THE PURVIEW OF THE STATUTE; TO AMEND SECTION 17‑25‑45, AS AMENDED, RELATING TO TWO STRIKES/THREE STRIKES FOR REPEAT OFFENDERS OF MOST SERIOUS AND SERIOUS OFFENSES, SO AS TO ADD CERTAIN CRIMES TO THE DELINEATED LIST OF MOST SERIOUS OFFENSES INCLUDING TRAFFICKING IN PERSONS; TO AMEND SECTION 23‑3‑430, AS AMENDED, AND SECTION 23‑3‑490, RELATING TO THE SEX OFFENDER REGISTRY AND PUBLIC INSPECTION OF THE SEX OFFENDER REGISTRY, RESPECTIVELY, BOTH SO AS TO ADD TRAFFICKING IN PERSONS TO THE DELINEATED LIST OF OFFENSES UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 23‑3‑535 AND SECTION 23‑3‑540, BOTH AS AMENDED, RELATING TO LIMITATIONS ON SEX OFFENDERS AND ELECTRONIC MONITORING OF SEX OFFENDERS, RESPECTIVELY, BOTH SO AS TO ADD TRAFFICKING IN PERSONS TO THE DELINEATED LIST OF OFFENSES UNDER CERTAIN CIRCUMSTANCES; AND TO AMEND SECTION 44‑53‑370, AS AMENDED, RELATING TO DISTRIBUTION AND TRAFFICKING IN CERTAIN DRUGS, SO AS TO ADD TRAFFICKING IN PERSONS TO THE DELINEATED LIST OF OFFENSES.**

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

**Violent crimes, additional crimes added, trafficking in persons**

SECTION 1. Section 16‑1‑60 of the 1976 Code is amended to read:

 “Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10); attempted murder (Section 16‑3‑29); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)), criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first and second degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B)); kidnapping (Section 16‑3‑910); trafficking in persons (Section 16‑3‑930); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); criminal domestic violence of a high and aggravated nature (Section 16‑25‑65); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑33‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); lewd act upon a child under sixteen (Section 16‑15‑140); sexual exploitation of a minor first degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

**Crime classification, Class A felonies, trafficking in persons added**

SECTION 2. Section 16‑1‑90(A) of the 1976 Code is amended to read:

 “(A) The following offenses are Class A felonies and the maximum terms established for a Class A felony, as set forth in Section 16‑1‑20(A), apply:

 10‑11‑325(B)(2) Detonating an explosive or destructive device or

 igniting an incendiary device upon the capitol

 grounds or within the capitol building resulting

 in death to a person where there was not malice aforethought

 16‑3‑50 Manslaughter‑‑voluntary

 16‑3‑652 Criminal sexual conduct

 First degree

 16‑3‑655(C)(2) Criminal sexual conduct, 1st degree, with

 minor less than sixteen

 Second offense

 16‑3‑656 Assault with intent to commit criminal sexual

 conduct

 First degree

 16‑3‑658 Criminal sexual conduct where victim is legal

 spouse (separated)

 First degree

 16‑3‑910 Kidnapping

 16‑3‑920 Conspiracy to commit kidnapping

 16‑3‑930 Trafficking in persons

 16‑3‑1075(B)(2) Carjacking (great bodily injury)

 16‑11‑110(A) Arson in the first degree

 16‑11‑330(A) Robbery while armed with a deadly weapon

 16‑11‑380(A) Entering bank with intent to steal money,

 securities for money, or property, by force,

 intimidation, or threats

 16‑11‑390 Safecracking

 16‑11‑532(D)(2) Injuring real property when illegally

 obtaining nonferrous metals and the act results

 in the death of a person

 16‑23‑720(A)(2) Detonating a destructive device or causing

 an explosion, or intentionally aiding,

 counseling, or procuring an explosion by

 means of detonation of a destructive device

 which results in the death of a person where

 there was not malice aforethought

 24‑13‑450 Taking of a hostage by an inmate

 43‑35‑85(F), Abuse or neglect of a vulnerable

 16‑3‑1050(F) adult resulting in death

 44‑53‑370 Prohibited Acts A, penalties (b)(1) (narcotic

 drugs in Schedule I(b) and (c), LSD, and

 Schedule II)

 Second, Third, or subsequent offense

 44‑53‑370(e)(2)(a)2 Prohibited Acts A, penalties (trafficking in

 cocaine, 10 grams or more but less than 28

 grams)

 Second offense

 44‑53‑370(e)(2)(b)2 Prohibited Acts, penalties (trafficking in

 cocaine, 28 grams or more but less than 100

 grams)

 Second offense

 44‑53‑370(e)(5)(a)2 Prohibited Acts, penalties (trafficking in

 LSD, 100 dosage units or more but less than

 500 dosage units)

 Second offense

 44‑53‑370(e)(5)(b)2 Prohibited Acts, penalties (trafficking in

 LSD, 500 dosage units or more but less than

 1,000 dosage units)

 Second offense

 44‑53‑370(e)(5)(a)3 Prohibited Acts, penalties (trafficking in

 LSD, 100 dosage units or more, but less than 500 dosage units)

 Third or subsequent offense

 44‑53‑370(e)(5)(b)3 Prohibited Acts, penalties (trafficking in

 LSD, 500 dosage units or more, but less than

 1,000 dosage units)

 Third or subsequent offense

 44‑53‑370(e)(6)(d) Prohibited Acts, penalties (trafficking in

 flunitrazepam, 5 kilograms or more)

 44‑53‑370(e)(8)(a)(ii) Trafficking in MDMA or ecstasy, 100

 dosage units but less than 500

 Second offense

 44‑53‑370(e)(8)(a)(iii) Trafficking in MDMA or ecstasy,

 100 dosage units but less than 500

 Third or subsequent offense

 44‑53‑370(e)(8)(b)(ii) Trafficking in MDMA or ecstasy, 100

 dosage units but less than 1000

 Third or subsequent offense

 44‑53‑370(e)(8)(b)(iii) Trafficking in MDMA or ecstasy, 100

 dosage units but less than 1000

 Third or subsequent offense

 44‑53‑370(g)(1)(b) Prohibited Acts A, penalties (distribution

 of narcotic drugs in Schedule I (b) and (c),

 LSD, and Schedule II with intent to commit

 a crime)

 Second offense

 44‑53‑370(g)(1)(c) Prohibited Acts A, penalties (distribution

 of narcotic drugs in Schedule I (b) and (c), LSD,

 and Schedule II with intent to

 commit a crime)

 Third or subsequent offense

 44‑53‑375(B)(2) Manufacture, distribution of methamphetamine

 or cocaine base Second offense

 44‑53‑375(B)(3) Manufacture, distribution, etc.,

 methamphetamine, or cocaine base

 Third or subsequent offense

 44‑53‑375(C)(1)(b) Trafficking in ice, crank, or crack cocaine

 (10 grams or more but less than 28 grams)

 Second offense

 44‑53‑375(C)(2)(b) Trafficking in ice, crank, or crack cocaine

 (28 grams or more but less than 100 grams)

 Second offense

 55‑1‑30(3) Unlawful removing or damaging of airport

 facility or equipment when death results

 56‑5‑1030(B)(3) Interference with traffic‑control devices or

 railroad signs or signals prohibited when

 death results from violation

 58‑17‑4090 Penalty for obstruction of railroad”

**Crime classification, Class D felonies, Section 16‑3‑930 deleted**

SECTION 3. Section 16‑1‑90(D) of the 1976 Code is amended to read:

 “(D) The following offenses are Class D felonies and the maximum terms established for a Class D felony, as set forth in Section 16‑1‑20(A), apply:

 10‑11‑325(A) Possessing, having readily accessible, or

 transporting onto the capitol grounds or

 within he capitol building an explosive,

 destructive, or incendiary device

 16‑1‑55 Accessory after the fact of a Class A, B, or C

 Felony

 16‑3‑1090(B) Assist another person in committing suicide

 16‑3‑1730(C) Stalking within ten years of a conviction of

 harassment or stalking

 16‑11‑312 Burglary‑‑second degree

 16‑11‑325 Common law robbery

 16‑11‑525(D)(1) Injuring real property when illegally

 obtaining nonferrous metals and the act

 results in great bodily injury to person

 16‑15‑140 Committing or attempting lewd act upon child

 under sixteen

 16‑15‑355 Disseminating obscene material to a minor

 twelve years or younger

 16‑23‑720(C) Possessing, manufacturing, transporting,

 distributing, possessing with the intent to

 distribute any explosive device, substance,

 or material configured to damage, injure, or

 kill a person, or possessing materials which

 when assembled constitute a destructive device

 16‑23‑720(D) Threaten by means of a destructive weapon

 16‑23‑720(E) Harboring one known to have violated

 provisions relating to bombs, weapons of

 mass destruction, and destructive devises

 16‑23‑730 Communicating or transmitting to a person that

 a hoax device or replica is a destructive device

 or detonator with intent to intimidate or threaten

 injury, obtain property, or interfere with the

 ability of a person or government to conduct its

 affairs

 16‑23‑750 Communicating or aiding and abetting the

 communication of a threat or conveying false

 information concerning an attempt to kill,

 injure, or intimidate a person or damage

 property or destroy by means of an explosive,

 incendiary, or destructive device

 Second or subsequent offense

 24‑3‑210 Furloughs for qualified inmates of state

 prison system‑‑Failure to return (See Section

 24‑13‑410)

 24‑13‑410(B) Escaping or attempting to escape from prison or

 possessing tools or weapons used to escape

 24‑13‑470 Inmate throwing bodily fluids on a correctional

 facility employee

 43‑35‑85(B) Abusing or neglecting a vulnerable adult that

 results in great bodily injury

 43‑35‑85(D), Abuse or neglect of a vulnerable adult resulting

 16‑3‑1050(E) in great bodily injury

 44‑53‑370(b)(1) Prohibited Acts A, penalties (narcotic drugs in

 Schedule I (b) and (c), LSD, and Schedule II)

 First offense

 44‑53‑370 Prohibited Acts A, penalties (g)(2)(a)

 (distribution of controlled substances with

 intent to commit a crime) First offense

 44‑53‑375(B)(1) Manufacture, distribution, etc.,

 methamphetamine or cocaine

 First offense

 44‑53‑445(B)(2) Distribution, manufacture, sale, or possession

 of crack cocaine within proximity of a school

 44‑53‑577 Unlawful to hire, solicit, direct a person under

 seventeen years of age to transport, conceal, or conduct

 financial transaction relating to unlawful drug

 activity

 50‑21‑113(A)(1) Operating a moving water device while under

 the influence of alcohol or drugs where great

 bodily injury results

 56‑5‑2945(A)(1) Causing great bodily injury by operating vehicle while under influence of drugs or alcohol”

**Murder, aggravating circumstances, trafficking in persons added**

SECTION 4. Section 16‑3‑20(C)(a)(1) of the 1976 Code, as last amended by Act 101 of 2007, is further amended to read:

 “(C) The judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

 (a) Statutory aggravating circumstances:

 (1) The murder was committed while in the commission of the following crimes or acts:

 (a) criminal sexual conduct in any degree;

 (b) kidnapping;

 (c) trafficking in persons;

 (d) burglary in any degree;

 (e) robbery while armed with a deadly weapon;

 (f) larceny with use of a deadly weapon;

 (g) killing by poison;

 (h) drug trafficking as defined in Section 44‑53‑370(e), 44‑53‑375(B), 44‑53‑440, or 44‑53‑445;

 (i) physical torture;

 (j) dismemberment of a person; or

 (k) arson in the first degree as defined in Section 16‑11‑110(A).”

**Criminal sexual conduct in the first degree, trafficking in persons added**

SECTION 5. Section 16‑3‑652(1)(b) of the 1976 Code is amended to read:

 “(1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

 (a) The actor uses aggravated force to accomplish sexual battery.

 (b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.”

**Criminal sexual conduct with a minor, aggravating circumstances, trafficking in persons added**

SECTION 6. Section 16‑3‑655(D)(2)(a) of the 1976 Code, as last amended by Act 346 of 2006, is further amended to read:

 “(2) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

 (a) Statutory aggravating circumstances:

 (i) The victim’s resistance was overcome by force.

 (ii) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

 (iii) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

 (iv) The victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing his resistance.

 (v) The crime was committed by a person with a prior conviction for murder.

 (vi) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

 (vii) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

 (viii) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

 (ix) The crime was committed during the commission of burglary in any degree, kidnapping, or trafficking in persons.”

**Two strikes/three strikes for certain offenses, trafficking in persons added to the most serious offense list**

SECTION 7. Section 17‑25‑45(C) of the 1976 Code is amended to read:

 “(C) As used in this section:

 (1) ‘Most serious offense’ means:

 16‑1‑40 Accessory, for any offense enumerated in this item

 16‑1‑80 Attempt, for any offense enumerated in this item

 16‑3‑10 Murder

 16‑3‑29 Attempted Murder

 16‑3‑50 Voluntary manslaughter

 16‑3‑85(A)(1) Homicide by child abuse

 16‑3‑85(A)(2) Aiding and abetting homicide by child abuse

 16‑3‑210 Lynching, First degree

 16‑3‑210(B) Assault and battery by mob, First degree

 16‑3‑620 Assault and battery with intent to kill

 16‑3‑652 Criminal sexual conduct, First degree

 16‑3‑653 Criminal sexual conduct, Second degree

 16‑3‑655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16‑3‑655(3)

 16‑3‑656 Assault with intent to commit criminal sexual conduct, First and Second degree

 16‑3‑910 Kidnapping

 16‑3‑920 Conspiracy to commit kidnapping

 16‑3‑930 Trafficking in persons

 16‑3‑1075 Carjacking

 16‑11‑110(A) Arson, First degree

 16‑11‑311 Burglary, First degree

 16‑11‑330(A) Armed robbery

 16‑11‑330(B) Attempted armed robbery

 16‑11‑540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results

 24‑13‑450 Taking of a hostage by an inmate

 25‑7‑30 Giving information respecting national or state defense to foreign contacts during war

 25‑7‑40 Gathering information for an enemy

 43‑35‑85(F) Abuse or neglect of a vulnerable adult resulting in death

 55‑1‑30(3) Unlawful removing or damaging of airport facility or equipment when death results

 56‑5‑1030(B)(3) Interference with traffic‑control devices or railroad signs or signals prohibited when death results from violation

 58‑17‑4090 Obstruction of railroad, death results.

 (2) ‘Serious offense’ means:

 (a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

 (b) those felonies enumerated as follows:

 16‑3‑220 Lynching, Second degree

 16‑3‑210(C) Assault and battery by mob, Second degree

 16‑3‑600(B) Assault and battery of a high and aggravated nature

 16‑3‑810 Engaging child for sexual performance

 16‑9‑220 Acceptance of bribes by officers

 16‑9‑290 Accepting bribes for purpose of procuring public office

 16‑11‑110(B) Arson, Second degree

 16‑11‑312(B) Burglary, Second degree

 16‑11‑380(B) Theft of a person using an automated teller machine

 16‑13‑210(1) Embezzlement of public funds

 16‑13‑230(B)(3) Breach of trust with fraudulent intent

 16‑13‑240(1) Obtaining signature or property by false pretenses

 38‑55‑540(3) Insurance fraud

 44‑53‑370(e) Trafficking in controlled substances

 44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

 44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

 56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

 (c) the offenses enumerated below:

 16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

 16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

 43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

 (3) ‘Conviction’ means any conviction, guilty plea, or plea of nolo contendere.”

**Sex offender registry, trafficking in persons added**

SECTION 8. Section 23‑3‑430(C) of the 1976 Code is amended to read:

 “(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

 (1) criminal sexual conduct in the first degree (Section 16‑3‑652);

 (2) criminal sexual conduct in the second degree (Section 16‑3‑653);

 (3) criminal sexual conduct in the third degree (Section 16‑3‑654);

 (4) criminal sexual conduct with minors, first degree (Section 16‑3‑655(1));

 (5) criminal sexual conduct with minors, second degree. If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(3) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

 (6) engaging a child for sexual performance (Section 16‑3‑810);

 (7) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

 (8) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656);

 (9) incest (Section 16‑15‑20);

 (10) buggery (Section 16‑15‑120);

 (11) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

 (12) peeping, voyeurism, or aggravated voyeurism (Section 16‑17‑470);

 (13) violations of Article 3, Chapter 15 of Title 16 involving a minor;

 (14) a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

 (15) kidnapping (Section 16‑3‑910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

 (16) kidnapping (Section 16‑3‑910) of a person under eighteen years of age except when the offense is committed by a parent;

 (17) trafficking in persons (Section 16‑3‑930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

 (18) criminal sexual conduct when the victim is a spouse (Section 16‑3‑658);

 (19) sexual battery of a spouse (Section 16‑3‑615);

 (20) sexual intercourse with a patient or trainee (Section 44‑23‑1150);

 (21) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

 (a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16‑15‑375(5);

 (b) perform a sexual activity in the presence of the person solicited (Section 16‑15‑342); or

 (22) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44‑53‑370(f), except petit larceny or grand larceny.”

**Sex offender registry, trafficking in persons added**

SECTION 9. Section 23‑3‑490(D)(1) of the 1976 Code is amended to read:

 “(D) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23‑3‑430 must be made available to the public in accordance with the following provisions:

 (1) If a person has been adjudicated delinquent for committing any of the following offenses, information must be made available to the public pursuant to subsections (A) and (B):

 (a) criminal sexual conduct in the first degree (Section 16‑3‑652);

 (b) criminal sexual conduct in the second degree (Section 16‑3‑653);

 (c) criminal sexual conduct with minors, first degree (Section 16‑3‑655(1));

 (d) criminal sexual conduct with minors, second degree (Section 16‑3‑655(2) and (3));

 (e) engaging a child for sexual performance (Section 16‑3‑810);

 (f) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

 (g) kidnapping (Section 16‑3‑910); or

 (h) trafficking in persons (Section 16‑3‑930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.”

**Sex offender limitations, trafficking in persons added**

SECTION 10. Section 23‑3‑535(B) of the 1976 Code, as added by Act 333 of 2008, is amended to read:

 “(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to reside within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground:

 (1) criminal sexual conduct with a minor, first degree;

 (2) criminal sexual conduct with a minor, second degree;

 (3) assault with intent to commit criminal sexual conduct with a minor;

 (4) kidnapping a person under eighteen years of age; or

 (5) trafficking in persons of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.”

**Sex offender electronic monitoring, trafficking in persons added**

SECTION 11. Section 23‑3‑540(G)(1) of the 1976 Code, as last amended by Act 346 of 2006, is further amended to read:

 “(G) This section applies to a person who has been:

 (1) convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses:

 (a) criminal sexual conduct with a minor in the first degree (Section 16‑3‑655(A));

 (b) criminal sexual conduct with a minor in the second degree (Section 16‑3‑655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from illicit consensual sexual conduct, as contained in Section 16‑3‑655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, then the convicted person is not required to be electronically monitored pursuant to the provisions of this section;

 (c) engaging a child for sexual performance (Section 16‑3‑810);

 (d) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

 (e) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656) involving a minor;

 (f) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

 (g) violations of Article 3, Chapter 15 of Title 16 involving a minor;

 (h) kidnapping (Section 16‑3‑910) of a person under eighteen years of age except when the offense is committed by a parent;

 (i) trafficking in persons (Section 16‑3‑930) of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; or”

**Distribution and trafficking in certain drugs, trafficking in persons added**

SECTION 12. Section 44‑53‑370(f) of the 1976 Code is amended to read:

 “(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

 (1) kidnapping, Section 16‑3‑910;

 (2) trafficking in persons, Section 16‑3‑930;

 (3) criminal sexual conduct in the first, second, or third degree, Sections 16‑3‑652, 16‑3‑653, and 16‑3‑654;

 (4) criminal sexual conduct with a minor in the first or second degree, Section 16‑3‑655;

 (5) criminal sexual conduct where victim is legal spouse (separated), Section 16‑3‑658;

 (6) spousal sexual battery, Section 16‑3‑615;

 (7) engaging a child for a sexual performance, Section 16‑3‑810;

 (8) committing lewd act upon child under sixteen, Section 16‑15‑140;

 (9) petit larceny, Section 16‑13‑30 (A); or

 (10) grand larceny, Section 16‑13‑30 (B).”

**Savings clause**

SECTION 13. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 14. This act takes effect upon approval by the Governor.

Ratified the 7th day of June, 2010.

Approved the 11th day of June, 2010.

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