**South Carolina General Assembly**

119th Session, 2011-2012

**S. 539**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Leventis

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Companion/Similar bill(s): 810, 3131

Introduced in the Senate on February 10, 2011

Currently residing in the Senate Committee on **Judiciary**

Summary: Criminal domestic violence

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/10/2011 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h:\sj%20archive\2011\02-10-11.docx))

2/10/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 4](file:///h:\sj%20archive\2011\02-10-11.docx))

1/9/2012 Senate Referred to Subcommittee: Hutto (ch), Rose, Shoopman

**VERSIONS OF THIS BILL**

[2/10/2011](file:///p:\pprever\2011-12\539_20110210.docx)

**A** **BILL**

TO AMEND SECTION 16‑25‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF “HOUSEHOLD MEMBER” IN CONNECTION WITH CRIMINAL DOMESTIC VIOLENCE OFFENSES, SO AS TO INCLUDE PERSONS IN A DATING RELATIONSHIP AND TO DEFINE “DATING RELATIONSHIP”; TO AMEND SECTION 20‑4‑20, AS AMENDED, RELATING TO DEFINITIONS IN THE “PROTECTION FROM DOMESTIC ABUSE ACT”, SO AS TO REVISE THE DEFINITION OF “HOUSEHOLD MEMBER” TO INCLUDE PERSONS IN A DATING RELATIONSHIP AND TO DEFINE “DATING RELATIONSHIP”; TO AMEND SECTION 20‑4‑40, AS AMENDED, RELATING TO THE PETITION FOR AN ORDER OF PROTECTION, SO AS TO PROVIDE THAT A PARENT OR GUARDIAN MAY PETITION THE COURT FOR AN ORDER ON BEHALF OF A MINOR WHO IS IN A DATING RELATIONSHIP; AND TO AMEND SECTION 20‑4‑60, AS AMENDED, RELATING TO THE CONTENTS OF AN ORDER OF PROTECTION, SO AS TO AUTHORIZE A RESPONDENT IN A PROCEEDING TO COMPLETE A BATTERER TREATMENT PROGRAM AND TO ORDER OTHER PROHIBITIONS OR REQUIREMENTS NECESSARY TO PROTECT THE ABUSED PERSON.

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

SECTION 1. Section 16‑25‑10 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑10. As used in this article, ‘household member’ means:

(1) a spouse;

(2) a former spouse;

(3) persons who have a child in common; ~~or~~

(4) a male and female who are cohabiting or formerly have cohabited; or

(5) a person who is presently in or in the past has been in a dating relationship. For purposes of this section, ‘dating relationship’ means a romantic or intimate social relationship between two individuals, which must be determined by examining these factors:

(a) the length of the relationship;

(b) the type of the relationship; and

(c) the frequency of interaction between the two individuals involved in the relationship.

A ‘dating relationship’ does not include a casual relationship or ordinary fraternization between two individuals in a business or social context.”

SECTION 2. Section 20‑4‑20 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 20‑4‑20. As used in this chapter:

~~(a)~~(1) ‘Abuse’ means:

~~(1)~~(a) Physical harm, bodily injury, assault, or the threat of physical harm;

~~(2)~~(b) Sexual criminal offenses, as otherwise defined by statute, committed against a family or household member by a family or household member;

~~(b)~~(2) ‘Household member’ means:

~~(i)~~(a) a spouse;

~~(ii)~~(b) a former spouse;

~~(iii)~~(c) persons who have a child in common;

~~(iv)~~(d) a male and female who are cohabiting or formerly have cohabited;

~~(v)~~(e) a person who is presently in or in the past has been in a dating relationship.

(3) ‘Dating relationship’ means a romantic or intimate social relationship between two individuals, which must be determined by examining these factors:

(a) the length of the relationship;

(b) the type of the relationship; and

(c) the frequency of interaction between the two individuals involved in the relationship.

A ‘dating relationship’ does not include a casual relationship or ordinary fraternization between two individuals in a business or social context.

~~(c)~~(4) ‘Court’ means the family court.

~~(d)~~(5) ‘Petitioner’ means the person alleging abuse in a petition for an order of protection.

~~(e)~~(6) ‘Respondent’ in a petition for an order of protection means the person alleged to have abused another or a person alleged to have aided and abetted ~~such~~ the abuse.

~~(f)~~(7) ‘Order of protection’ means an order of protection issued to protect the petitioner or minor household members from the abuse of another household member ~~where~~ when the respondent has received notice of the proceedings and has had an opportunity to be heard.”

SECTION 3. Section 20‑4‑40(a) of the 1976 Code, as last amended by Act 519 of 1994, is further amended to read:

“(a) A petition for relief under this section may be made by any household members in need of protection ~~or~~, by any household members on behalf of minor household members, or by a parent or guardian on behalf of a minor who is in a dating relationship.”

SECTION 4. Section 20‑4‑60(C) of the 1976 Code is amended to read:

“(C) When the court has, after a hearing for any order of protection, issued an order of protection, it may, in addition:

(1) award temporary custody and temporary visitation rights with regard to minor children living in the home over whom the parties have custody;

(2) direct the respondent to pay temporary financial support for the petitioner and minor child unless the respondent has no duty to support the petitioner or minor child;

(3) when the respondent has a legal duty to support the petitioner or minor children living in the household and the household’s residence is jointly leased or owned by the parties or the respondent is the sole owner or lessee, grant temporary possession to the petitioner of the residence to the exclusion of the respondent;

(4) prohibit the transferring, destruction, encumbering, or otherwise disposing of real or personal property mutually owned or leased by the parties or in which one party claims an equitable interest, except when in the ordinary course of business;

(5) provide for temporary possession of the personal property of the parties and order assistance from law enforcement officers in removing personal property of the petitioner if the respondent’s eviction has not been ordered;

(6) award costs and attorney’s fees to either party;

(7) order the respondent to attend and complete a batterer treatment program offered through a government agency, nonprofit organization, or private provider approved by the Department of Social Services;

(8) order any additional prohibitions or requirements the court considers necessary to protect a household member;

(9) award any other relief authorized by Section 63‑3‑530; ~~provided,~~ however, the court must have due regard for any prior family court orders issued in an action between the parties.”

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent, 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 expressly so provides. 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.

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this severability, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. This act takes effect upon approval by the Governor.

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