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**VERSIONS OF THIS BILL**

[12/3/2015](file:///p:\pprever\2015-16\4516_20151203.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑23‑117 SO AS TO PROVIDE THAT THE CRIMINAL JUSTICE ACADEMY SHALL DEVELOP AND IMPLEMENT A CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM FOR SCHOOL RESOURCE OFFICERS, TO PROVIDE CONTENT REQUIREMENTS FOR THE CURRICULUM, AND TO PROVIDE SCHOOL RESOURCE OFFICERS SHALL COMPLETE RELATED TRAINING; BY ADDING SECTION 59‑26‑120 SO AS TO PROVIDE THAT BEGINNING WITH THE 2016‑2017 SCHOOL YEAR, THE STATE DEPARTMENT OF EDUCATION SHALL REQUIRE ONE HOUR OF TRAINING IN CONFLICT INTERVENTION AND RESOLUTION AS A REQUIREMENT FOR THE RENEWAL OF CREDENTIALS OF TEACHERS AND ADMINISTRATORS EMPLOYED IN MIDDLE SCHOOLS OR HIGH SCHOOLS, TO PROVIDE RELATED REQUIREMENTS FOR THE DEPARTMENT AND SCHOOL DISTRICTS, AND TO PROHIBIT CAUSES OF ACTION FOR LOSS OR DAMAGE CAUSED BY ACTS OR OMISSIONS RESULTING FROM THE IMPLEMENTATION OF THESE PROVISIONS OR RESULTING FROM ANY TRAINING OR LACK OF TRAINING REQUIRED UNLESS THE LOSS OR DAMAGE WAS CAUSED BY WILFUL OR WANTON MISCONDUCT, AND TO PROVIDE THIS TRAINING DOES NOT IMPOSE A SPECIFIC DUTY OF CARE; BY ADDING SECTION 59‑63‑212 SO AS TO PROVIDE THAT SCHOOL DISTRICTS SHALL ADOPT ZERO‑TOLERANCE POLICIES THAT MAY NOT BE RIGOROUSLY APPLIED TO PETTY ACTS OF MISCONDUCT AND MISDEMEANORS, MUST APPLY EQUALLY TO ALL STUDENTS REGARDLESS OF THEIR ECONOMIC STATUS, RACE, OR DISABILITY, AND THAT ARE INTENDED TO PROMOTE SAFE AND SUPPORTIVE LEARNING ENVIRONMENTS IN SCHOOLS, PROTECT STUDENTS AND STAFF FROM CONDUCT THAT POSES A SERIOUS THREAT TO SCHOOL SAFETY, AND ENCOURAGES SCHOOLS TO USE ALTERNATIVES TO EXPULSION OR REFERRAL, AMONG OTHER THINGS; BY ADDING SECTION 59‑63‑215 SO AS TO PROVIDE EACH PUBLIC SCHOOL, PUBLIC SCHOOL DISTRICT, AND THE STATE DEPARTMENT OF EDUCATION SHALL MAINTAIN RECORDS AND MAKE ANNUAL REPORTS CONCERNING STUDENT SUSPENSIONS, EXPULSIONS, AND REFERRALS TO THE DEPARTMENT OF JUVENILE JUSTICE WITH DATA ABOUT THE AGE, RACE, AND GRADE LEVEL OF THE STUDENTS, AND TO PROVIDE THESE RECORDS AND REPORTS ARE PUBLIC RECORDS SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT; TO AMEND SECTION 5‑7‑12, AS AMENDED, RELATING TO SCHOOL RESOURCE OFFICERS, SO AS TO CLARIFY THE ROLE OF SCHOOL RESOURCE OFFICERS; TO AMEND SECTION 16‑17‑420, RELATING TO OFFENSES INVOLVING DISTURBING SCHOOLS, SO AS TO RESTRUCTURE THE OFFENSES TO PROVIDE A DELINEATED LIST OF THOSE ACTIONS WHICH INVOLVE DISTURBING SCHOOLS, TO REVISE THE PENALTY FOR A VIOLATION OF A DISTURBING SCHOOLS OFFENSE, AND TO PROVIDE AN EXCEPTION FOR SCHOOL‑SPONSORED ATHLETIC EVENTS; AND TO REPEAL SECTIONS 59‑63‑235 AND 59‑63‑240 BOTH RELATING TO SCHOOL EXPULSIONS.

Whereas, the South Carolina General Assembly finds that our public schools must be safe spaces for students where they can learn in a secure, nurturing environment free of inappropriate distractions and fear; and

Whereas, the South Carolina General Assembly finds that the interests of safety taken to the extreme can have tragic, unintended consequences for at‑risk youth whose juvenile missteps can unjustly trigger an irreversible, inevitable descent from education and the optimistic future it can provide to incarceration and a very bleak, hopeless future; and

Whereas, the South Carolina General Assembly finds that a means of just discipline is necessary for creating and maintaining safe schools, with teachers and administrators serving as the primary authorities charged with administering discipline and maintaining order in our public schools; and

Whereas, the South Carolina General Assembly finds that school resource officers provide an important supplementary role in creating safe schools by both acting to deter misconduct and to intervene in criminal matters occurring in schools, but recent trends indicate the role of school resource officers has expanded beyond the bounds of law enforcement and into routine disciplinary matters that are the province of school administrators and teachers; and

Whereas, the South Carolina General Assembly recognizes that the respective roles of public school employees and school resource officers in the pursuit of just, safe schools must be clearly delineated, and also that a healthy measure of common sense must be applied to promote true justice in our public school disciplinary process while maintaining order necessary for a safe learning environment. Now, therefore,

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

SECTION 1. Chapter 23, Title 23 of the 1976 Code is amended by adding:

“Section 23‑23‑117. (A) Before January 1, 2017, the Criminal Justice Academy shall develop and implement a cultural competency model training program curriculum for school resource officers. The cultural competency model training program curriculum must:

(1) teach behaviors, attitudes, and policies that enable law enforcement officers to understand, communicate with, and effectively interact with the individuals, organizations, and institutions in the community in the public school to which a law enforcement officer is assigned;

(2) provide personal exposure to the individuals, organizations, and institutions within the assigned community; and

(3) provide knowledge of governmental and community services available to help prevent juvenile arrests.

(B) A person serving as a school resource officer on December 31, 2016, must complete the cultural competency training program provided in subsection (A) before January 1, 2017, in addition to satisfying other applicable requirements. After December 31, 2016, a person may not begin his initial assignment as a school resource officer without completing the cultural competency program provided in subsection (A) and other applicable requirements.”

SECTION 2. Chapter 26, Title 59 of the 1976 Code is amended by adding:

“Section 59‑26‑120. (A) Beginning with the 2016‑2017 school year, the Department of Education shall require one hour of training in conflict intervention and resolution as a requirement for the renewal of credentials of teachers and administrators employed in a middle school or high school as defined in Section 59‑1‑150. The required training must count toward the one hundred twenty renewal credits specified in State Department of Education regulations for renewal of credentials. The department shall develop guidelines suitable for training and materials that may be used by schools and districts but districts may select and approve materials to be used in providing training for its employees. These guidelines must provide teachers and administrators with the tools necessary to properly intervene and resolve conflict with students and among students.

(B) No person may have a cause of action for a loss or damage caused by any act or omission resulting from the implementation of the provisions of this section or resulting from any training, or lack of training, required by this section unless the loss or damage was caused by wilful or wanton misconduct. The training, or lack of training, required by the provisions of this section must not be construed to impose any specific duty of care.”

SECTION 3. Article 3, Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Section 59‑63‑212. (A) It is a policy of this State to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. Consequently, zero‑tolerance policies must not be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor altercations or disturbances. A school must strive to conscientiously enforce zero‑tolerance policies equally to all students regardless of their economic status, race, or disability.

(B) Each district school board shall adopt a policy of zero tolerance that:

(1) defines criteria for reporting to a law enforcement agency an act that occurs in a time or place where students are within the jurisdiction of the district school board;

(2) defines acts that pose a serious threat to school safety;

(3) defines petty acts of misconduct;

(4) minimizes the victimization of students, staff, or volunteers, including taking all steps necessary to protect the victim of a violent crime from further victimization; and

(5) establishes a procedure that provides each student with the opportunity for a review of the disciplinary action involving a zero‑tolerance violation.

(C)(1) A zero‑tolerance policy must require a student found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student’s regular school for a period of not less than one full year, and to be referred to the criminal justice or juvenile justice system:

(a) bringing a firearm or other deadly weapon to a school, to a school function, or on school‑sponsored transportation;

(b) making a threat or false report involving school or school personnel’s property, school transportation, or a school‑sponsored activity; or

(c) both.

(2) A district school board may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion. A district school superintendent may consider the one‑year expulsion requirement on an individual basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or an alternative school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. If a student committing an offense in this subsection is a student who has a disability, the district school board shall comply with applicable State Board of Education rules and regulations.

(D)(1) A district school board shall enter into agreements with the county sheriff’s office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.

(2) The agreements required pursuant to item (1) must include the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report with a law enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.

(3) A zero‑tolerance policy may not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency.

(4) The school principal shall ensure that all school personnel are properly informed of their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

(E) Notwithstanding another provision of law, each district school board shall adopt rules providing that any student found to have committed the offense of threatening bodily harm or threatening the life of a public official including school district employees as provided in Section 16‑3‑1040, or the offense of disturbing schools as provided in Section 16‑17‑420, must be expelled or placed in an alternative school setting or other program, as appropriate. Upon being charged with the offense, the student must be removed from the classroom immediately and placed in an alternative school setting pending disposition.

(F) Any disciplinary or prosecutorial action taken against a student who violates a zero‑tolerance policy must be based on the particular circumstances of the student’s misconduct.

(G) School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

(H) To the extent a provision of this section conflicts with another provision of this chapter, the provisions of this section must prevail.”

SECTION 4. Article 3, Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Section 59‑63‑215. (A) A public school shall maintain a record of each student suspension, expulsions, and referral the Department of Juvenile Justice for that school. The record must include the age, race, and grade level of each such suspension, expulsion, and referral. The school shall report this information for the preceding school year to its superintendent and the State Department of Education annually before August first.

(B) A public school district shall maintain a record of each student suspension, expulsion, and referral to the Department of Juvenile Justice for that district. The record must include the age, race, and grade level of each such suspension, expulsion, and referral. The district shall report this information for the preceding school year to the State Department of Education annually before October first.

(C) The State Department of Education shall maintain a record of each student suspension, expulsion, and referral to the Department of Juvenile Justice for the State. The record must include the age, race, and grade level of each such suspension, expulsion, and referral. The department shall report this information for the preceding school year to the General Assembly annually before December first.

(D) The records and reports provided in this section are public records subject to the Freedom of Information Act, except that names and other personally identifying information other than age, race, and grade level may not be disclosed.”

SECTION 5. Section 5‑7‑12 of the 1976 Code, as last amended by Act 267 of 2008, is further amended to read:

“Section 5‑7‑12. (A) The governing body of a municipality or county may, upon the request of another governing body or of another political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer ~~shall have~~ has statewide jurisdiction only to arrest persons committing crimes in connection with a school activity or school‑sponsored event. In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school‑sponsored event. Notwithstanding another provision of law, a student arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrates court within twenty‑four hours of his arrest. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers’ compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a ‘school resource officer’ is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State ~~to have as a primary duty the responsibility to~~ act as a law enforcement officer~~, advisor, and teacher for that school district~~ to respond to incidents of criminal behavior in connection with a school activity or school‑sponsored event.”

SECTION 6. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It ~~shall be~~ is unlawful~~:~~

~~(1)~~ ~~for any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or~~

~~(2)~~ ~~for any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.~~ for a person who is not a student to wilfully interfere with, disrupt, or disturb the normal operations of a school or college in this State by:

(1) entering upon school or college grounds or property without the permission of the principal or president in charge;

(2) loitering upon or about school or college grounds or property, after notice is given to vacate the grounds or property and after having reasonable opportunity to vacate;

(3) initiating a physical assault on, or fighting with, another person on school or college grounds or property;

(4) being loud or boisterous on school or college grounds or property after instruction by school or college personnel to refrain from the conduct;

(5) threatening physical harm to a student or school or college employee while on school or college grounds or property; or

(6) threatening the use of deadly force on school or college property or involving school or college grounds or property when the person has the present ability, or is reasonably believed to have the present ability, to carry out the threat.

For the purpose of this subsection, ‘person who is not a student’ means a person who is not enrolled in, or who is suspended or expelled from, the school or college that the person interferes with, disrupts, or disturbs at the time the interference, disruption, or disturbance occurs.

(B) Any person ~~violating any of the provisions~~ who violates a provision of this section ~~shall be~~ is guilty of a misdemeanor and, ~~on~~ upon conviction ~~thereof, shall pay a fine of~~, must be fined not more than ~~one~~ two thousand dollars or ~~be~~ imprisoned ~~in the county jail for~~ not more than ~~ninety days~~ one year.

(C) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, the summary courts are vested with exclusive jurisdiction to hear and dispose of cases involving a violation of this section. However, if the person is a child as defined by Section 63‑19‑20, jurisdiction must remain vested in the Family Court.

(D) The provisions of this section do not apply to school‑sponsored athletic events.”

SECTION 7. 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 act, 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 8. Sections 59‑63‑235 and 59‑63‑240 of the 1976 Code are repealed.

SECTION 9. Except as otherwise provided herein, this act takes effect upon approval of the Governor.

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