**A** **BILL**

TO AMEND SECTION 24‑21‑410, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PLACEMENT OF A DEFENDANT ON PROBATION, SO AS TO PROVIDE THAT IF THE DEFENDANT IS CONVICTED OF OR PLEADS GUILTY TO AN OFFENSE INVOLVING A VIOLENT ACT AGAINST A PERSON OR THE TAKING OF PROPERTY FROM A PERSON AND THE DEFENDANT IS PLACED ON PROBATION, THE DEFENDANT MAY NOT BE PLACED ON PROBATION FOR A SUBSEQUENT OFFENSE.

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

SECTION 1. Section 24‑21‑410 of the 1976 Code as last amended by Act 151 of 2010, is further amended to read:

“Section 24‑21‑410. (A) After conviction or plea for any offense, except a crime punishable by death or life imprisonment, or as provided in subsection (B), the judge of a court of record with criminal jurisdiction at the time of sentence may suspend the imposition or the execution of a sentence and place the defendant on probation or may impose a fine and also place the defendant on probation. Probation is a form of clemency.

(B) If the defendant is convicted of or pleads guilty to an offense involving a violent act against a person or the taking of property from a person, and the defendant is placed on probation, the defendant may not be placed on probation for a subsequent offense.

(C) Before a defendant may be placed on probation, he must agree in writing to be subject to a search or seizure, without a search warrant, based on reasonable suspicions, of the defendant’s person, any vehicle the defendant owns or is driving, and any of the defendant’s possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

A defendant may not be placed on probation by the court if he fails to comply with this provision and instead must be required to serve the suspended portion of the defendant’s sentence. However, a defendant who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the defendant agree to be subject to search or seizure, without a search warrant, with or without cause, of the defendant’s person, any vehicle the defendant owns or is driving, or any of the defendant’s possessions.

Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.”

SECTION 2. This act takes effect upon approval by the Governor.

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