**South Carolina General Assembly**

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**H. 3651**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Calhoon and Bernstein

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

Summary: Criminal Sexual Conduct

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/12/2024 House Prefiled

 12/12/2024 House Referred to Committee on **Judiciary**

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**VERSIONS OF THIS BILL**

[12/12/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3651_20241212.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 23‑3‑540, RELATING TO ELECTRONIC MONITORING OF PERSONS CONVICTED OF CERTAIN SEX OFFENSES AND PENALTIES, SO AS TO REQUIRE ACTIVE ELECTRONIC MONITORING FOR PERSONS CONVICTED OF THE CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE SECOND DEGREE WITH EXCEPTIONS.

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

SECTION 1. Section 23‑3‑540 (A), (C), (E), and (H) of the S.C. Code is amended to read:

 (A) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), criminal sexual conduct with a minor in the second degree, pursuant to Section 16‑3‑655(B), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), the court must order that the person, upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

 (C) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), criminal sexual conduct with a minor in the second degree, pursuant to Section 16‑3‑655(B), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), and who violates a term of probation, parole, community supervision, or a community supervision program must be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

 (E) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), criminal sexual conduct with a minor in the second degree, pursuant to Section 16‑3‑655(B), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), and who violates a provision of this article, must be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

 (H) The person shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device for the duration of the time the person is required to remain on the sex offender registry pursuant to the provisions of this article, unless the person is committed to the custody of the State. Ten years from the date the person begins to be electronically monitored, the person may petition the chief administrative judge of the general sessions court for the county in which the person was ordered to be electronically monitored for an order to be released from the electronic monitoring requirements of this section. The person shall serve a copy of the petition upon the solicitor of the circuit and the Department of Probation, Parole and Pardon Services. The court must hold a hearing before ordering the person to be released from the electronic monitoring requirements of this section, unless the court denies the petition because the person is not eligible for release or based on other procedural grounds. The solicitor of the circuit, the Department of Probation, Parole and Pardon Services, and any victims, as defined in Article 15, Chapter 3, Title 16, must be notified of any hearing pursuant to this subsection and must be given an opportunity to testify or submit affidavits in response to the petition. If the court finds that there is clear and convincing evidence that the person has complied with the terms and conditions of the electronic monitoring and that there is no longer a need to electronically monitor the person, then the court may order the person to be released from the electronic monitoring requirements of this section. If the court denies the petition or refuses to grant the order, then the person may refile a new petition every five years from the date the court denies the petition or refuses to grant the order. A person may not petition the court if the person is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), criminal sexual conduct with a minor in the second degree, pursuant to Section 16‑3‑655(B), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C).

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

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