

CJA LESSON PLAN COVER SHEET

LESSON PLAN TITLE:	LESSON PLAN #:	STATUS (New/Revised):
Legal Update 2015-2016	I0317	New

TRAINING UNIT:	TIME ALLOCATION:
Legal	1 Hour

PRIMARY INSTRUCTOR:	ALT. INSTRUCTOR:	REVISED & SUBMITTED BY:
Legal Instructors		Carol Summers

ORIGINAL DATE OF LESSON PLAN:	JOB TASK ANALYSIS YEAR:
2015	

LESSON PLAN PURPOSE:

The purpose of this lesson is to update the student about changes in the laws and procedures that relate to law enforcement.

EVALUATION PROCEDURES:

None

TRAINING AIDS, SUPPLIES, EQUIPMENT, SPECIAL CLASSROOM/INSTRUCTIONAL REQUIREMENTS:

Legal Update Handout

PERFORMANCE OBJECTIVES

LESSON PLAN TITLE:

LESSON PLAN #:

STATUS (New/Revised):

Legal Update 2015-2016

I0317

New

PERFORMANCE OBJECTIVES:

1. Discuss South Carolina statutes regarding bicycling laws to promote awareness among the law enforcement community.
2. Discuss case law regarding the requirements of §56-5-2953 of the South Carolina Code of Laws and Fourth Amendment issues involving standing to allege a violation and electronic monitoring of offenders.
3. Discuss various South Carolina statutes, regulations, and case law as it pertains to law enforcement misconduct.
4. Discuss Legislative updates to the South Carolina Code of Laws.

LESSON PLAN EXPANDED OUTLINE

LESSON PLAN TITLE:	LESSON PLAN #:	STATUS (New/Revised):
Legal Update 2015-2016	I0317	New

I. INTRODUCTION

This unit of instruction is designed to update the student about changes in law and procedure that relate to law enforcement.

II. BODY

A. SOUTH CAROLINA BICYCLING LAWS

Perform an interview to promote awareness among the law enforcement community of South Carolina statutes regarding bicycling laws. In particular, interview Amy Johnson, Director of the Palmetto Cycling Coalition, regarding the rights and duties of bicyclists and users of play vehicles. Statutes to be covered are S.C. Code Ann. §56-5-3410, et. seq.

B. CASE LAW

1. Requirements of §56-5-2953 of the South Carolina Code of Laws
State v. Taylor, 768 S.E.2d 71 (Ct. App. 2014)

Facts

On July 22, 2011, South Carolina Highway Patrol Trooper E.S. Tolley charged Taylor with Driving with an Unlawful Alcohol Concentration (DUAC) under §56-5-2933 of the South Carolina code (Supp. 2013). During the stop, as Tolley repositioned his patrol vehicle, the camera omitted Taylor from view for a period of time.

Issue

Taylor moved pretrial to dismiss the charge against her, arguing Tolley failed to comply with §56-5-2953 of the South Carolina Code (Supp. 2013) because the video omitted her from view for several seconds and Tolley failed to submit an affidavit explaining why her actions were not recorded during that time.

Rule

The court quoted from §56-5-2953 in finding “A person who commits a DUI offense ‘must have his conduct at the incident site... video recorded. The video recording at the incident site must: (i) not begin later than the activation of the officer’s blue lights; (ii) include any field sobriety tests administered; and (iii) include the arrest of a person for a violation of... [s]ection 56-5-2933 [of the South Carolina Code (Supp. 2013)],... and show the person being advised of his [Miranda] rights.”

On excusable non-compliance with the video recording requirement, the court discussed §56-5-2953(B). “However, noncompliance with the recording requirement is excusable and is not alone a ground for dismissal (1) if the arresting officer submits a sworn affidavit certifying the video equipment was inoperable and stating which reasonable efforts were made to maintain it; (2) if the arresting officer submits a sworn affidavit that it was physically impossible to produce the videotape because either (a) the defendant needed emergency medical treatment or (b) exigent circumstances existed; (3) when an arrest is made and the camera has not been activated if video recording begins and conforms with the requirements as soon as practicable in circumstances including, but not limited to, road blocks, traffic accident investigation, and citizens’ arrests; or (4) for any other valid reason for the failure to produce the video tape based upon the totality of the circumstances.”

The court quoted from State v. Suchenski, 374 S.C. at 17, 646 S.E.2d at 881 in finding “dismissal of a DUI charge is an appropriate remedy provided by §56-5-2953 where a violation of subsection (A) is not mitigated by subsection (B) exceptions.”

Analysis

The court reviewed Suchenski, Murphy v. State, 392 S.C.626, 709 S.E.2d 685 (Ct. App. 2011) and State v. Gordon, 408 S.C. 536, 759 S.E.2d 755 (Ct. App. 2014), *cert. granted*. The court found [these cases] demonstrate the plain language of the statute does not require the video to encompass every action of the defendant, but requires video of each event listed in the statute. In each case dismissal hinged on whether the officer complied with the mandatory provisions of the statute.

The court found that interpreting the statute to require dismissal of the charges when the defendant is off camera for a short period of time and the gap does not occur during any of those events that either create direct evidence of a DUI or serve important rights of the defendant would result in an absurdity that could not possibly have been intended by the legislature. Indeed, interpreting the statute in that way would require dismissal of a DUI charge when a suspect stumbles out of view of the camera or when the officer is placing a suspect into his vehicle. Accordingly, §56-5-2953 does not require dismissal of a DUI charge when the video recording of the incident briefly omits the suspect but that omission does not occur during any of those events that either create direct evidence of a DUI or serve important rights of the defendant.

Conclusion

The court held §56-5-2953 was not violated in this situation and submitting an affidavit was unnecessary. Although the video omitted Taylor from its view during the repositioning of Tolley’s patrol vehicle, none of the field sobriety tests administered and none of the other statutory requirements occurred while she was out of the camera’s view. The case was remanded to magistrate’s court for trial.

2. Fourth Amendment Issues
 - a. Standing to allege a violation

State v. Robinson, 410 S.C. 519, 765 S.E.2d 564 (2014)

Facts

On Thursday, March 20, 2008, the York Police Department received several anonymous complaints that people were selling drugs and carrying weapons outside of the Hall Street apartments in York, South Carolina. Starting at 10:00 p.m., Sergeant Rayford Ervin, a police officer working with the York County Drug Enforcement Unit, stood in a wooded area across the street from the apartment complex and used a pair of binoculars to conduct covert surveillance.

Over the next half hour, five cars stopped in front of Apartment 122, where five men stood on the porch of that unit. Each time a car stopped, the same man wearing a black jacket and blue jeans walked from the porch to the car, spoke briefly with the car’s occupants, conducted a “hand to hand transaction”, and then rejoined the other four men on the porch. As a veteran narcotics officer, Ervin found “that type of activity [] consistent with drug sales,” particularly because Thursdays tend to “have more drug dealing activity going on.” He therefore called for backup.

At 10:30 P.m., Lieutenant James Ligon and Officer Brian Schettler parked in front of Apartment 122 with the illuminated headlights pointed towards the porch. Ligon and Schettler identified themselves as police officers and walked onto the porch of Apartment 122. At that point, the five men standing on the porch were standing in two groups, with two men wearing black jackets and jeans - Laquaris Patton and Robinson - on the left side of the porch, and the other three men (none of whom were wearing jackets) on the right side. Because of Ervin's description of the potential drug dealer's clothing, the officers were primarily interested in Patton and Robinson. Ligon asked both men for identification, which they readily provided.

While Ligon inspected the two drivers' licenses, both officers began to smell a strong odor of green marijuana emanating from Robinson's side of the porch. Further, Ligon noticed the butt of a gun protruding from the pocket of Robinson's jacket. As a result, Ligon informed Patton and Robinson that the officers were going to conduct a Terry frisk for drugs and weapons.

At that point, Robinson began to back away from the officers, and, in fear for his safety, Ligon lunged for and seized the gun, immediately before Robinson also reached for it. A struggle ensued, during which Robinson's jacket fell to the ground. Robinson fled the scene, abandoning his jacket. Ligon pursued Robinson, and after another brief scuffle, subdued and arrested Robinson. After Ligon brought Robinson back to Apartment 122, Schettler searched Robinson's discarded jacket and found a semiautomatic pistol, a bag containing 3.2 grams of marijuana, a bag containing 0.84 grams of loose crack cocaine rocks, and a bag containing 2.97 grams of crack cocaine rocks packaged in eleven individually wrapped bags.

Issue

Whether Robinson established that his Fourth Amendment rights were violated by the officers' entry onto the porch of Apartment 122.

Rule

The court cited multiple cases in outlining a rule regarding the Fourth Amendment's application to Robinson's presence on the front porch of Apartment 122.

The Fourth Amendment to the United States Constitution protects the people's right to be free from unreasonable searches and seizures. Accordingly, warrantless searches and seizures inside a man's home are presumptively unreasonable absent a recognized exception to the warrant requirement. Likewise, the Fourth Amendment extends the same protection to a home's curtilage, including a porch. However, "the Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection". For this reason, mere visual observations from public thoroughfares do not constitute a search. The Fourth Amendment is not triggered unless a person has an actual and reasonable expectation of privacy, or unless the government commits a common-law trespass for the purpose of obtaining information. Fourth Amendment rights are personal rights, which, like some other constitutional rights, may not be vicariously asserted. The extent to which the Fourth Amendment protects people may depend upon where those people are.

Analysis

The court found that to claim the protection of the Fourth Amendment, a defendant must demonstrate that he had an actual and reasonable expectation of privacy in the place searched. On determining whether the defendant does have an expectation of privacy the court listed the following factors:

- a. Whether the defendant owned the home or had property rights to it
- b. Whether he was an overnight guest at the home
- c. Whether he kept a change of clothes at the home
- d. Whether he had a key to the home
- e. Whether he had dominion and control over the home and could exclude others from the home
- f. How long he had known the owner of the home
- g. How long he had been at the home
- h. Whether he attempted to keep his activities in the home private
- i. Whether he engaged in typical domestic activities at the home, or whether he treated it as a commercial establishment
- j. Whether he alleged a proprietary or possessory interest in the premises and property seized (even if only at a motion to suppress, where that admission cannot be used against him to determine his guilt); and
- k. Whether he paid rent at the home

In determining whether the evidence should be suppressed, the court outlined each party's burden. The State bears the burden to demonstrate that it was entitled to conduct the search or seizure under an exception to the Fourth Amendment's warrant requirement. The State also bears the burden to show that the warrantless entry was limited in scope and duration in accordance with the exigent circumstances which required its presence. The criminal defendant retains the burden to establish that he is asserting his own Fourth Amendment rights, rather than vicariously asserting the rights of others; therefore, the defendant bears the burden to demonstrate that he had an actual and reasonable expectation of privacy in the place illegally searched.

The court found that Robinson failed to carry his burden, as he produced no testimony whatsoever that would implicate any of the factors set forth demonstrating that he had an expectation of privacy in the porch of Apartment 122. At no point did Robinson claim to be the renter, an overnight guest, or have any other connection to Apartment 122. Thus, we find that Robinson was "merely present with the consent of the householder," and as such, did not have a reasonable expectation of privacy on the porch of Apartment 122.

The court differentiated this case from two recent cases- State v. Jones, 132 S. Ct. 945 (2012) and Florida v. Jardines, 133 S. Ct. 1409 (2013). Jones and Jardines involved warrantless searches of the defendants' property that amounted to Fourth Amendment violations, solely because of the officers' unauthorized entry onto and use of the defendant's property. The court found it important that in both cases, the defendants were the owners of the property searched, or otherwise definitively had the right to assert any alleged Fourth Amendment violations. In contrast, the court characterized this case as a situation where a casual guest wishes to assert an alleged trespass on *another's* property.

Conclusion

The court held that even if the ultimate Fourth Amendment violation a criminal defendant seeks to vindicate is a trespass under Jones, the defendant must demonstrate that he had an actual and reasonable expectation of privacy in the area upon which the police illegally trespassed. A defendant must establish that his own Fourth Amendment rights were violated by the illegal entry, rather than vicariously asserting the Fourth Amendment rights of the property owner.

As Robinson made no showing that he had a reasonable expectation of privacy in the porch of Apartment 122, he failed to establish that his Fourth Amendment rights were violated.

b. Electronic monitoring

Grady v. North Carolina, 135 S.Ct. 1368 (2015)

Facts

At the conclusion of his sentence for “Taking Indecent Liberties with a Child” Grady was ordered to be subjected to satellite-based monitoring (SBM) as a recidivist sex offender, under North Carolina’s recidivist statutes. (Grady had a prior conviction for a “Second Degree Sexual Offense” in 1997) The SBM requires that a recidivist offender wear a tracking device at all times.

Issue

Whether North Carolina’s program, that monitors recidivist sex offenders by attaching a tracking device to them at all times, violates Grady’s Fourth Amendment right to be free from unreasonable searches and seizures.

Rule

In United States v. Jones, the court held that “The Government’s installation of a GPS device on a target’s vehicle, and its use of that device to monitor the vehicle’s movements, constitutes a “search”. 132 S.Ct. 954, 181 L.Ed.2d 911 (2012). In that case, the physical occupation of private property for the purpose of obtaining information was important, and it was not necessary to inquire as to any expectation of privacy.

The court also cited Florida v. Jardines for the proposition that a search occurs when the government gains evidence by physically intruding on constitutionally protected areas. 133 S.Ct. 1409, 1417, 185 L.Ed.2d 495 (2013).

Analysis

The court found the Jones and Jardines decisions lead to the conclusion that “a State also conducts a search when it attaches a device to a person’s body, without consent, for the purpose of tracking that individual’s movements.

Conclusion

The court found that as the State’s program to be plainly designed to obtain information by physically intruding on a subject’s body, it is a Fourth Amendment search. The case was remanded to the North Carolina courts for a further determination of whether the search is unreasonable, and thus prohibited by the Fourth Amendment.

C. SOUTH CAROLINA LAW ENFORCEMENT MISCONDUCT

Perform an interview discussing various South Carolina statutes, regulations, and case law as it pertains to law enforcement misconduct. In particular, interview Brandy Duncan, General Counsel for South Carolina Criminal Justice Academy, regarding the procedure to review, investigate and prosecute certification misconduct in this state. Statutes and Regulations to be covered are S.C. Code Ann 23-23-10, et. seq. and S.C. Code Regulations 38-001, et. seq.

D. LEGISLATIVE UPDATE

1. Raffles: effective March 5, 2015 – A constitutional amendment was ratified that added that the game of bingo, when conducted by charitable, religious, or fraternal organizations exempt from federal income taxation or when conducted at recognized annual state and county fairs, is not considered a lottery. The amendment also adds that a raffle, if provided for by general law and conducted by a nonprofit organization for charitable, religious, fraternal, educational, or other eleemosynary purposes, is not a lottery. The general law must define the type of nonprofit organization authorized to operate and conduct a raffle, provide standards for the operation and conduct of raffles, provide for the use of proceeds for religious, charitable, fraternal, educational, or other eleemosynary purposes, provide penalties for violations, and provide for other laws necessary to ensure the proper functioning, honesty, and integrity of the raffles.

AN ACT TO RATIFY AN AMENDMENT TO SECTION 7, ARTICLE XVII OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE PROHIBITION ON LOTTERIES AND THE EXCEPTIONS TO THIS PROHIBITION, SO AS TO PROVIDE THAT THE GENERAL ASSEMBLY MAY AUTHORIZE RAFFLES TO BE OPERATED AND CONDUCTED BY RELIGIOUS, CHARITABLE, OR NONPROFIT ORGANIZATIONS FOR RELIGIOUS, CHARITABLE, OR ELEEMOSYNARY PURPOSES, AND BY GENERAL LAW MUST DEFINE THE TYPE OF ORGANIZATION AUTHORIZED TO CONDUCT RAFFLES, TO PROVIDE THE STANDARDS FOR THEIR CONDUCT AND MANAGEMENT, TO PROVIDE PENALTIES FOR VIOLATIONS, AND TO PROVIDE FOR ANY OTHER LAW NECESSARY TO ENSURE THE PROPER FUNCTIONING, HONESTY, INTEGRITY, AND CHARITABLE PURPOSES FOR WHICH THE RAFFLES ARE CONDUCTED.

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

Constitutional amendment allowing certain raffles ratified

Section 1. The amendment to Article XVII of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 102 of 2013, having been submitted to the qualified electors at the General Election of 2014 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 7 of Article XVII is amended to read:

Section 7. Only the State may conduct lotteries, and these lotteries must be conducted in the manner that the General Assembly provides by law. The revenue derived from the lotteries must be used first to pay all operating expenses and prizes for the lotteries. The remaining lottery revenues must be credited to a separate fund in the state treasury styled the 'Education Lottery Account', and the earnings on this account must be credited to it. Education Lottery Account proceeds may be used only for educational purposes as the General Assembly provides by law.

The game of bingo, when conducted by charitable, religious, or fraternal organizations exempt from federal income taxation or when conducted at recognized annual state and county fairs, is not considered a lottery prohibited by this section.

A raffle, if provided for by general law and conducted by a nonprofit organization for charitable, religious, fraternal, educational, or other eleemosynary purposes, is not a lottery prohibited by this section. The general law must define the type of nonprofit organization authorized to operate and conduct a raffle, provide standards for the operation and conduct of raffles, provide for the use of proceeds for religious, charitable, fraternal, educational, or other eleemosynary purposes, provide penalties for violations, and provide for other laws necessary to ensure the proper functioning, honesty, and integrity of the raffles. If a general law on the conduct and operation of a nonprofit raffle for charitable purposes, including the type of organization allowed to conduct raffles, is not enacted, then the raffle is a lottery prohibited by this section."

Ratified the 5th day of March, 2015.

2. Human Trafficking: effective April 2, 2015 – This legislation provides, in part, for the following:
 - a. The State Grand Jury will have jurisdiction to investigate trafficking in persons.
 - b. §16-3-2010(7) of the 1976 Code has been amended to include a definition of “sex trafficking.”
 - c. §16-3-2100 has been added to the 1976 Code. It requires certain establishments to post particular information outlined in the statute regarding the National Human Trafficking Resource Center Hotline, specifies the manner in which the posting shall be made and provides for a fine for any failure to abide by the law. Included establishments are:
 - (1) an establishment which has been declared a nuisance for prostitution pursuant to Chapter 43, Title 15;
 - (2) an adult business, including a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity, as defined in Section 16-15-375, or seminudity, as defined in Section 57-25-120;
 - (3) businesses and establishments that offer massage or bodywork services by any person who is not licensed under Chapter 30, Title 40;
 - (4) emergency rooms within any hospital;
 - (5) urgent care centers;
 - (6) any hotel, motel, room, or accommodation furnished to transients for which fees are charged in this State;
 - (7) all agricultural labor contractors and agricultural labor transporters as defined pursuant to Section 41-27-120; and
 - (8) all airports, train stations, bus stations, rest areas, and truck stops.
 - d. §8-30-10(A) of the 1976 Code has been amended to read that the Executive Director of the State Commission for Minority Affairs, or a designee, shall establish and maintain a twenty-four hour toll free telephone number and electronic website to receive, record, collect, and report allegations of several matters including violation of human trafficking laws.
 - e. §§16-1-60 and 17-25-45(C)(1) of the 1976 Code have been amended to make trafficking in persons a violent and “most serious” offense.

AN ACT TO AMEND SECTION 14-7-1610, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE GRAND JURY SYSTEM AND LEGISLATIVE FINDINGS AND APPLICABILITY, SO AS TO INCLUDE CRIMES INVOLVING TRAFFICKING IN PERSONS IN THE PURVIEW OF THE STATUTE; TO AMEND SECTION 14-7-1630, AS AMENDED, RELATING TO JURISDICTION OF THE STATE GRAND JURY, SO AS TO INCLUDE CRIMES INVOLVING TRAFFICKING IN PERSONS IN THE PURVIEW OF THE STATUTE; TO AMEND SECTION 16-3-2010, RELATING TO DEFINITIONS FOR PURPOSES OF TRAFFICKING IN PERSONS, SO AS TO REVISE THE DEFINITION OF "SEX TRAFFICKING"; BY ADDING SECTION 16-3-2100 SO AS TO REQUIRE THE POSTING OF INFORMATION REGARDING THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE IN CERTAIN BUSINESS ESTABLISHMENTS, PROVIDE LANGUAGE FOR THE POSTING, AND PROVIDE FOR A FINE FOR THE FAILURE TO POST THE INFORMATION AS REQUIRED; TO AMEND SECTION 16-3-2050, RELATING TO THE INTERAGENCY TASK FORCE FOR THE PREVENTION OF TRAFFICKING IN PERSONS, SO AS TO REVISE THE MEMBERSHIP OF THE TASK FORCE; AND TO AMEND SECTION 8-30-10, RELATING TO RECORDING AND REPORTING ALLEGATIONS OF FEDERAL IMMIGRATION LAW VIOLATIONS, SECTION 16-1-60, AS AMENDED, RELATING TO CRIMES DEFINED AS VIOLENT, SECTION 17-25-45, AS AMENDED, RELATING TO CRIMES DEFINED AS MOST SERIOUS AND SERIOUS FOR PURPOSES OF TWO STRIKES AND THREE STRIKES PROVISIONS, SECTIONS 23-3-430, 23-3-490, AND 23-3-540, ALL AS AMENDED, RELATING TO THE SEX OFFENDER REGISTRY, AND SECTION 44-53-370, AS AMENDED, RELATING TO THE ILLEGAL POSSESSION, MANUFACTURE, AND DISTRIBUTION OF CERTAIN CONTROLLED SUBSTANCES, ALL SO AS TO CORRECT CODE SECTION REFERENCES TO TRAFFICKING IN PERSONS OFFENSES TO REFLECT THE CODE SECTION OF 16-3-2020.

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

State Grand Jury applicability, inclusion of trafficking in persons

Section 1. Section 14-7-1610(A) and (H) of the 1976 Code, as last amended by Act 82 of 2007, is further amended to read:

- (A) It is the intent of the General Assembly to enhance the grand jury system and to improve the ability of the State to detect and eliminate criminal activity. The General Assembly recognizes the great importance of having the federal authorities available for certain investigations. The General Assembly finds that crimes involving narcotics, dangerous drugs, or controlled substances, trafficking in persons, as well as crimes involving obscenity, often transpire or have significance in more than one county of this State. When this occurs, these crimes are most effectively detected and investigated by a grand jury system with the authority to cross county lines.
- (H) Accordingly, the General Assembly concludes that a state grand jury should be allowed to investigate certain crimes related to narcotics, dangerous drugs, or controlled substances, criminal gang activity, trafficking in persons, and obscenity and also should be allowed to investigate crimes involving public corruption, election laws, and environmental offenses.

State Grand Jury jurisdiction, inclusion of trafficking in persons

Section 2. Section 14-7-1630(A) of the 1976 Code, as last amended by Act 280 of 2008, is further amended to read:

- (A) The jurisdiction of a state grand jury impaneled pursuant to this article extends throughout the State. The subject matter jurisdiction of a state grand jury in all cases is limited to the following offenses:
- (1) a crime involving narcotics, dangerous drugs, or controlled substances, or a crime arising out of or in connection with a crime involving narcotics, dangerous drugs, or controlled substances, including, but not limited to, money laundering as specified in Section 44-53-475, obstruction of justice, perjury or subornation of perjury, or any attempt, aiding, abetting, solicitation, or conspiracy to commit one of the aforementioned crimes, if the crime is of a multi-county nature or has transpired or is transpiring or has significance in more than one county of this State;
 - (2) a crime involving criminal gang activity or a pattern of criminal gang activity pursuant to Article 3, Chapter 8, Title 16;
 - (3) a crime, statutory, common law or other, involving public corruption as defined in Section 14-7-1615, a crime, statutory, common law or other, arising out of or in connection with a crime involving public corruption as defined in Section 14-7-1615, and any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime, statutory, common law or other, involving public corruption as defined in Section 14-7-1615;
 - (4) a crime involving the election laws, including, but not limited to, those named offenses specified in Title 7, or a common law crime involving the election laws if not superseded, or a crime arising out of or in connection with the election laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving the election laws;
 - (5) a crime involving computer crimes, pursuant to Chapter 16, Title 16, or a conspiracy or solicitation to commit a crime involving computer crimes;
 - (6) a crime involving terrorism, or a conspiracy or solicitation to commit a crime involving terrorism. Terrorism includes an activity that:
 - (a) involves an act dangerous to human life that is a violation of the criminal laws of this State;
 - (b) appears to be intended to:
 - (i) intimidate or coerce a civilian population;
 - (ii) influence the policy of a government by intimidation or coercion; or
 - (iii) affect the conduct of a government by mass destruction, assassination, or kidnapping; and
 - (c) occurs primarily within the territorial jurisdiction of this State;
 - (7) a crime involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws;

- (8) a crime involving obscenity, including, but not limited to, a crime as provided in Article 3, Chapter 15, Title 16, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving obscenity;
- (9) a crime involving the knowing and wilful making of, aiding and abetting in the making of, or soliciting or conspiring to make a false, fictitious, or fraudulent statement or representation in an affidavit regarding an alien's lawful presence in the United States, as defined by law, if the number of violations exceeds twenty or if the public benefit received by a person from a violation or combination of violations exceeds twenty thousand dollars;
- (10) a crime involving financial identity fraud or identity fraud involving the false, fictitious, or fraudulent creation or use of documents used in an immigration matter as defined in Section 16-13-525, if the number of violations exceeds twenty, or if the value of the ascertainable loss of money or property suffered by a person or persons from a violation or combination of violations exceeds twenty thousand dollars;
- (11) a crime involving the knowing and wilful making of, aiding or abetting in the making of, or soliciting or conspiring to make a false, fictitious, or fraudulent statement or representation in a document prepared or executed as part of the provision of immigration assistance services in an immigration matter, as defined by law, if the number of violations exceeds twenty, or if a benefit received by a person from a violation or combination of violations exceeds twenty thousand dollars;
- (12) a knowing and wilful crime involving actual and substantial harm to the water, ambient air, soil or land, or both soil and land. This crime includes a knowing and wilful violation of the Pollution Control Act, the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or a knowing and wilful crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a knowing and wilful crime involving the environment if the anticipated actual damages, including, but not limited to, the cost of remediation, is two million dollars or more, as certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control. If the knowing and wilful crime is a violation of federal law, a conviction or an acquittal pursuant to federal law for the same act is a bar to the impaneling of a state grand jury pursuant to this section; and
- (13) a crime involving or relating to the offense of trafficking in persons, as defined in Section 16-3-2020, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county.

Trafficking in persons, definition of "sex trafficking" revised

Section 3. Section 16-3-2010(7) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

- (7) 'Sex trafficking' means the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by another person:
- (a) criminal sexual conduct pursuant to Section 16-3-651;
 - (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;
 - (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;
 - (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;
 - (e) criminal sexual conduct with a minor pursuant to Section 16-3-655;
 - (f) engaging a child for sexual performance pursuant to Section 16-3-810;
 - (g) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;
 - (h) sexual battery pursuant to Section 16-3-651;
 - (i) sexual conduct pursuant to Section 16-3-800; or
 - (j) sexual performance pursuant to Section 16-3-800.

Trafficking in persons, posting of information regarding the National Human Trafficking Resource Center Hotline in certain establishments, fine for failure to post required notice

Section 4. Article 19, Chapter 3, Title 16 of the 1976 Code is amended by adding:

Section 16-3-2100.

- (A) The following establishments are required to post the information contained in subsection (B) regarding the National Human Trafficking Resource Center Hotline:
- (1) an establishment which has been declared a nuisance for prostitution pursuant to Chapter 43, Title 15;
 - (2) an adult business, including a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity, as defined in Section 16-15-375, or seminudity, as defined in Section 57-25-120;
 - (3) businesses and establishments that offer massage or bodywork services by any person who is not licensed under Chapter 30, Title 40;
 - (4) emergency rooms within any hospital;
 - (5) urgent care centers;
 - (6) any hotel, motel, room, or accommodation furnished to transients for which fees are charged in this State;

- (7) all agricultural labor contractors and agricultural labor transporters as defined pursuant to Section 41-27-120; and
 - (8) all airports, train stations, bus stations, rest areas, and truck stops.
- (B) The information must be posted in each public restroom for the business or establishment and a prominent location conspicuous to the public at the entrance of the establishment where posters and notices are customarily posted on a poster no smaller than eight and one-half by eleven inches in size and must state in both English and Spanish on the same poster information relevant to the hotline, including the following or language substantially similar:
- 'If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. Victims of human trafficking are protected under federal law and the laws of South Carolina. The hotline is:
- (1) available twenty-four hours a day, seven days a week;
 - (2) operated by a nonprofit, nongovernmental organization;
 - (3) anonymous and confidential;
 - (4) accessible in one hundred seventy languages;
 - (5) able to provide help, referral to services, training, and general information.'
- (C) The Department of Revenue, the State Law Enforcement Division, and the Department of Transportation, as appropriate depending on the regulatory control or authority the respective department exercises over the establishment, are directed to provide each establishment with the notice required to be posted by this section. The departments shall post on the departments' websites a sample of the notice required to be posted which must be accessible for download. The business must download and post the notice in not less than sixteen point font.
- (D) The Department of Revenue, the State Law Enforcement Division, or the Department of Transportation, as appropriate, is authorized to issue a written warning to an establishment which fails to post the required notice provided in this section and may assess a fine of not more than fifty dollars for each subsequent violation. Each day that the establishment remains in violation of this section is considered a separate and distinct violation and the establishment may be fined accordingly.
- (E) The South Carolina Human Trafficking Task Force, Department of Revenue, and Department of Transportation are directed to collaborate on the design of the required notice to be posted and may partner to develop materials, and shall have the design finalized no later than one hundred twenty days after the effective date of this section. Establishments required to post the notice must be in compliance no later than six months after the effective date of this action.
- (F) This section does not apply to establishments providing entertainment in theatres, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances when the performances presented are expressing matters of serious literary, artistic, scientific, or political value.

Interagency Task Force for the Prevention of Trafficking in Persons, membership revised

Section 5. Section 16-3-2050(B) and (C) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

- (B) The task force shall consist of, at a minimum, representatives from:
- (1) the Office of the Attorney General, who must be chair;
 - (2) the South Carolina Department of Labor, Licensing and Regulation;
 - (3) the South Carolina Police Chiefs Association;
 - (4) the South Carolina Sheriffs' Association;
 - (5) the State Law Enforcement Division;
 - (6) the Department of Health and Environmental Control Board;
 - (7) the State Office of Victim Assistance;
 - (8) the South Carolina Commission on Prosecution Coordination;
 - (9) the Department of Social Services;
 - (10) a representative from the Office of the Governor;
 - (11) a representative from the Department of Employment and Workforce; and
 - (12) two persons appointed by the Attorney General from nongovernmental organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking in persons.
- (C) The Attorney General shall invite representatives of the United States Department of Labor, the United States Attorneys' offices, and federal law enforcement agencies' offices within the State, including the Federal Bureau of Investigations and the United States Immigration and Customs Enforcement office, to be members of the task force.

Conforming changes

Section 6.A. Section 8-30-10(A) of the 1976 Code, as added by Act 280 of 2008, is amended to read:

- (A) The Executive Director of the State Commission for Minority Affairs, or a designee, shall establish and maintain a twenty-four hour toll free telephone number and electronic website to receive, record, collect, and report allegations of violations of federal immigration laws or related provisions of South Carolina law by any non-United States citizen or immigrant, and allegations of violations of any federal immigration laws or related provisions in South Carolina law against any non-United States citizen or immigrant. Such violations shall include, but are not limited to, E-Verify or other federal work authorization program violations, violations of Chapter 83, Title 40 of this code relating to immigration assistance services, or any regulations enacted governing the operation of immigration assistance services, false or fraudulent statements made or documents filed in relation to an immigration matter, as defined by Section 40-83-20, violation of human trafficking laws, as defined in Section 16-3-2020, landlord tenant law violations, or violations of any law pertaining to the provision or receipt of public assistance benefits or public services.

Section 16-1-60 of the 1976 Code, as last amended by Act 255 of 2012, is further 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, second, and third 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 16-3-2020); 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 10-11-325(B)(1)); spousal sexual battery (Section 16-3-615); producing, directing, or promoting sexual performance by a child (Section 16-3-820); 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.

Section 17-25-45(C)(1) of the 1976 Code is amended to read:

(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
16-3-1075	Carjacking
16-3-2020	Trafficking in persons
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.

Section 23-3-430(C)(17) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

- (17) trafficking in persons (Section 16-3-2020) 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;

Section 23-3-490(D)(1)(h) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

- (h) trafficking in persons (Section 16-3-2020) 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.

Section 23-3-540(G)(1)(i) of the 1976 Code, as last amended by Act 255 of 2012, is further amended to read:

- (i) trafficking in persons (Section 16-3-2020) 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

Section 44-53-370(f)(2) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

- (2) trafficking in persons, Section 16-3-2020;

Savings clause

Section 7. The repeal or amendment by this act of 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 8. This act takes effect upon approval by the Governor.

Ratified the 1st day of April 2015.

Approved the 2nd day of April 2015.

- 3. Domestic Violence Reform Act – effective June 4, 2015: This legislation is a complete reform of the former offense of “criminal domestic violence.” It provides, in part, the following:
 - a. Defines terms used in newly created domestic violence offenses including: deadly weapon, great bodily injury, moderate bodily injury, prior conviction of domestic violence, protection order and firearm.

- b. Creates the crime of “domestic violence” with 3 degrees.
 - i. Any “domestic violence” offense includes the following elements:
 - 1. Physical harm or injury to a “household member” or
 - 2. The offer or attempt to cause physical harm or injury with the apparent ability to do so under circumstances reasonably creating fear of imminent peril.
 - ii. Domestic Violence – 1st degree (Felony – 0 – 10 years)
 - 1. Base elements and
 - 2. One of the following:
 - a. great bodily injury to the person’s own household member results or the act is accomplished by means likely to result in great bodily injury to the person’s own household member;
 - b. the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;
 - c. has two or more prior convictions of domestic violence within ten years of the current offense;
 - d. the person uses a firearm in any manner while violating the provisions of subsection (A); or
 - e. in the process of committing domestic violence in the second degree one of the following also results:
 - (a) the offense is committed in the presence of, or while being perceived by a minor;
 - (b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;
 - (c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;
 - (d) the offense is committed by impeding the victim’s breathing or air flow; or
 - (e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:
 - (i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or
 - (ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

- iii. Domestic Violence – 2nd degree (Misdemeanor – 0 – 3 years and/or \$2,500 - \$5,000)
 - 1. Base elements and
 - 2. One of the following:
 - a. moderate bodily injury to the person’s own household member results or the act is accomplished by means likely to result in moderate bodily injury to the person’s own household member;
 - b. the person violates a protection order and in the process of violating the order commits domestic violence in the third degree;
 - c. the person has one prior conviction for domestic violence in the past ten years from the current offense; or
 - d. in the process of committing domestic violence in the third degree one of the following also results:
 - (a) the offense is committed in the presence of, or while being perceived by, a minor;
 - (b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;
 - (c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;
 - (d) the offense is committed by impeding the victim’s breathing or air flow; or
 - (e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:
 - (i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or
 - (ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.
- iv. Domestic violence – 3rd degree (Misdemeanor – 0 – 90 days and/or \$1,000 - \$2,500): Requires only the base elements
 - c. Provides that sentences may be suspended if outlined requirements are included in a probationary sentence and outlines factors for the Court to consider when determining whether a sentence should be suspended.
 - d. Creates a crime for violating the conditions of a protective order whether issued in S.C. or another state. (Misdemeanor – 0 – 30 days and \$0 - \$500)

- e. Creates crime regarding firearms or ammunition if previously convicted of domestic violence or under conditions prohibiting the same under a valid protective order, provides penalties and duration of prohibition (§16-25-30): It is unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if the person:
- i. has been convicted of domestic violence of a high and aggravated nature (DVHAN) or Domestic Violence – 1st degree or the equivalent in another state; or
 - ii. has been convicted of Domestic Violence – 2nd degree or the equivalent in another state and the trial court made specific findings that the defendant caused moderate bodily injury; or
 - iii. has been convicted of Domestic Violence – 2nd or 3rd degree and the trial court provided at sentencing that the defendant could not ship, transport, receive or possess a firearm or ammunition; or
 - iv. has been convicted of Domestic Violence in another state containing the elements of 2nd or 3rd degree and the trial court provided at sentencing that the defendant could not ship, transport, receive or possess a firearm or ammunition; or
 - v. is subject to a valid order of protection issued by the family court and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition; or
 - vi. is subject to a valid order of protection related to domestic or family violence issued by a court of another state and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition.
- f. Changes the offense of criminal domestic violence of a high and aggravated nature to domestic violence of a high and aggravated nature (DVHAN), provides elements, outlines punishment and definition of “under circumstances manifesting extreme indifference to the value of human life.” To establish DVHAN, must show:
- i. Base elements and
 - ii. One of the following:
 1. commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results;
 2. commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value

of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

3. violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.
- g. Changes CDVHAN to DVHAN and adds Domestic Violence – 1st degree in list of “violent” crimes.
- h. Adds DVHAN and Domestic Violence – 1st degree in list of “serious offenses.”
- i. Provides that uniform traffic tickets may be issued for Domestic Violence – 2nd and 3rd degrees.
- j. Outlines that danger to the victim is to be a consideration regarding the setting of bond.
- k. Requires that an incident report must be completed if a law enforcement agency arrests someone for domestic violence.
- l. Amends §16-25-70 to make arrest discretionary if an officer sees physical manifestations of injury and provides that an officer may not make an arrest if probable cause does not exist.
- m. Revises definition of “victim” to include a minor who witnesses a domestic violence offense.
- n. Establishes a Domestic Violence Advisory Committee.
- o. Provides for permanent restraining orders and emergency restraining orders.
- p. Outlines that only Domestic Violence – 3rd degree may be expunged if the defendant has no other convictions during a 5 year period.

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “DOMESTIC VIOLENCE REFORM ACT”; TO AMEND SECTION 16 25 10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF DOMESTIC VIOLENCE OFFENSES, SO AS TO DEFINE OTHER NECESSARY TERMS; TO AMEND SECTION 16 3 600, AS AMENDED, RELATING TO ASSAULT AND BATTERY OFFENSES, SO AS TO REVISE THE DEFINITION OF “MODERATE BODILY INJURY” TO CONFORM; TO AMEND SECTION 16 25 20, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OFFENSES, SO AS TO RESTRUCTURE THE OFFENSES BY GRADUATING THE PENALTIES INTO DEGREES, DEFINE THE ELEMENTS OF EACH DEGREE, AND PROVIDE A NEW PENALTY STRUCTURE, AMONG OTHER THINGS; TO AMEND SECTION 16 25 65, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO RESTRUCTURE THE OFFENSE, REDEFINE THE ELEMENTS OF THE OFFENSE, AND TO RESTRUCTURE THE PENALTY; TO AMEND SECTION 16 1 60, AS AMENDED, RELATING TO CRIMES DEFINED AS VIOLENT, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE FIRST DEGREE AS A VIOLENT CRIME; TO AMEND SECTION 17 25 45, AS AMENDED, RELATING TO OFFENSES DEFINED AS “MOST SERIOUS” AND “SERIOUS”, SO AS TO ADD THE OFFENSES OF DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE AND DOMESTIC VIOLENCE IN THE FIRST DEGREE TO THE LIST OF “SERIOUS” OFFENSES; TO AMEND SECTION 56 7 10, AS AMENDED, RELATING TO UNIFORM TRAFFIC TICKETS, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE SECOND AND THIRD DEGREE OFFENSES TO THE LIST OF ADDITIONAL OFFENSES FOR WHICH A UNIFORM TRAFFIC

TICKET MAY BE ISSUED; TO AMEND SECTION 16 25 30, RELATING TO POSSESSION OF A FIREARM BY A PERSON CONVICTED OF CERTAIN DOMESTIC VIOLENCE OFFENSES, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR PERSONS CONVICTED OF CERTAIN DOMESTIC VIOLENCE OFFENSES TO SHIP, TRANSPORT, RECEIVE, OR POSSESS A FIREARM OR AMMUNITION UNDER CERTAIN CIRCUMSTANCES AND PROVIDE A TIME FRAME FOR THE RESTORING OF RIGHTS REGARDING SHIPPING, TRANSPORTING, RECEIVING, OR POSSESSING A FIREARM OR AMMUNITION; TO AMEND SECTION 17 15 30 AND SECTION 22 5 510, BOTH AS AMENDED, RELATING TO MATTERS TO BE CONSIDERED WHEN DETERMINING CONDITIONS OF RELEASE ON BOND AND BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE COURT, RESPECTIVELY, BOTH SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL, TO PROVIDE THAT WHEN A PERSON IS CHARGED WITH A VIOLATION OF CERTAIN DOMESTIC VIOLENCE OFFENSES THAT A BOND HEARING MAY NOT PROCEED WITHOUT THE PERSON'S CRIMINAL RECORD AND INCIDENT REPORT, OR THE PRESENCE OF THE ARRESTING OFFICER, AND TO REQUIRE BOND HEARINGS FOR THESE VIOLATIONS TO BE HELD WITHIN TWENTY FOUR HOURS AFTER ARREST; TO AMEND SECTION 17 15 10, RELATING TO PERSONS WHO MAY BE RELEASED PENDING TRIAL, SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL; TO AMEND SECTION 16 25 120, AS AMENDED, RELATING TO THE RELEASE OF A PERSON ON BOND WHO IS CHARGED WITH A VIOLENT OFFENSE OR WHEN THE VICTIM IS A HOUSEHOLD MEMBER, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER CERTAIN FACTORS BEFORE RELEASING A PERSON ON BOND; TO AMEND SECTION 17 15 50, RELATING TO AMENDMENT OF AN ORDER RELATING TO BOND, SO AS TO CLARIFY THAT THE COURT WITH JURISDICTION OF THE OFFENSE MAY AMEND THE ORDER AT ANY TIME; TO AMEND SECTION 17 15 55, AS AMENDED, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO PROVIDE FOR THE PURPOSE OF BOND REVOCATION ONLY THAT A SUMMARY COURT HAS CONCURRENT JURISDICTION WITH THE CIRCUIT COURT FOR TEN DAYS FROM THE DATE BOND IS FIRST SET ON A CHARGE BY THE SUMMARY COURT TO DETERMINE IF BOND SHOULD BE REVOKED; TO AMEND SECTION 16 25 70, AS AMENDED, RELATING TO WARRANTLESS ARREST OR SEARCH FOR A DOMESTIC VIOLENCE OFFENSE, SO AS TO REQUIRE THAT THE MANDATED LAW ENFORCEMENT INVESTIGATION OF A DOMESTIC VIOLENCE OFFENSE MUST BE DOCUMENTED ON AN INCIDENT REPORT FORM WHICH MUST BE MAINTAINED BY THE INVESTIGATING AGENCY; TO AMEND SECTION 16 3 1110, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE ON COMPENSATION OF VICTIMS OF CRIME, SO AS TO INCLUDE MINOR WITNESSES TO A DOMESTIC VIOLENCE OFFENSE IN THE DEFINITION OF "VICTIM"; TO DIRECT THE DEPARTMENT OF SOCIAL SERVICES IN CONSULTATION WITH THE SOUTH CAROLINA VOUCHER PROGRAM TO PROVIDE CERTAIN CHILDCARE SERVICES TO VICTIMS OF DOMESTIC VIOLENCE TO ENCOURAGE PARTICIPATION IN COURT HEARINGS RELATING TO DOMESTIC VIOLENCE; TO AMEND SECTION 17 22 90, RELATING TO PRETRIAL INTERVENTION PROGRAMS AND AGREEMENTS REQUIRED BY OFFENDERS IN A PROGRAM,

SO AS TO REQUIRE THE CIRCUIT SOLICITOR, OR ATTORNEY GENERAL, IF APPROPRIATE, TO SELECT AND APPROVE A BATTERER'S TREATMENT PROGRAM FOR USE AS PART OF PRETRIAL INTERVENTION FOR CERTAIN DOMESTIC VIOLENCE OFFENSES; BY ADDING ARTICLE 3 TO CHAPTER 25, TITLE 16 SO AS TO CREATE THE DOMESTIC VIOLENCE ADVISORY COMMITTEE WHOSE PURPOSE IS TO DECREASE THE INCIDENCES OF DOMESTIC VIOLENCE, TO DEFINE NECESSARY TERMS, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE, TO PROVIDE FOR THE DUTIES OF THE COMMITTEE, AND TO EXEMPT CERTAIN MEETINGS AND INFORMATION FROM THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT AND PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO THE INVESTIGATION AND REVIEW OF INCIDENCES OF DOMESTIC VIOLENCE BY THE COMMITTEE; BY ADDING ARTICLE 5 TO CHAPTER 25, TITLE 16 SO AS TO RECODIFY THE PROVISIONS OF SECTION 43 1 260, RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS, WITHIN ARTICLE 5; TO AMEND SECTION 59 32 30, AS AMENDED, RELATING TO SUBJECTS TAUGHT IN THE COMPREHENSIVE HEALTH EDUCATION PROGRAM, SO AS TO ADD THE SUBJECT OF DOMESTIC VIOLENCE BEGINNING WITH THE 2016 2017 SCHOOL YEAR; TO REPEAL SECTION 43 1 260 RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS; BY ADDING ARTICLE 18 TO CHAPTER 3, TITLE 16 SO AS TO CREATE PROVISIONS REGARDING PERMANENT RESTRAINING ORDERS, TO DEFINE NECESSARY TERMS, TO PROVIDE PROCEDURES FOR OBTAINING PERMANENT RESTRAINING ORDERS AND EMERGENCY RESTRAINING ORDERS; AND TO AMEND SECTION 22 5 910, AS AMENDED, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO INCLUDE FIRST OFFENSE CONVICTIONS FOR DOMESTIC VIOLENCE IN THE THIRD DEGREE IN THE PURVIEW OF THE STATUTE AFTER FIVE YEARS FROM THE DATE OF CONVICTION.

Ratified the 2nd day of June, 2015.

Approved the 4th day of June, 2015.

4. Alleged abused or neglected child who is a member of an active duty military family: effective June 4, 2015 – This legislation provides, in part, that the Department of Social Services or law enforcement, or both, may collect information concerning the military affiliation of the person having custody or control of an alleged abused or neglected child and may share this information with the appropriate military authorities.

AN ACT TO AMEND SECTION 63 7 320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NOTIFICATION AND TRANSFER OF REPORTS OF CHILD ABUSE OR NEGLECT, SO AS TO PROVIDE THAT IF THE ALLEGED ABUSED OR NEGLECTED CHILD IS A MEMBER OF AN ACTIVE DUTY MILITARY FAMILY, THE COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL NOTIFY CERTAIN DESIGNATED MILITARY OFFICIALS AT THE INSTALLATION WHERE THE ACTIVE DUTY SERVICE MEMBER, WHO IS THE SPONSOR OF THE ALLEGED ABUSED OR NEGLECTED CHILD, IS ASSIGNED; TO AMEND SECTION 63 7 920, RELATING TO INVESTIGATIONS AND CASE DETERMINATIONS OF THE DEPARTMENT OF SOCIAL SERVICES, SO AS TO PROVIDE THAT THE DEPARTMENT OR LAW ENFORCEMENT, OR BOTH, MAY COLLECT INFORMATION CONCERNING THE MILITARY AFFILIATION OF THE PERSON HAVING CUSTODY OR CONTROL OF THE CHILD SUBJECT TO AN INVESTIGATION AND MAY SHARE THIS

INFORMATION WITH THE APPROPRIATE MILITARY AUTHORITIES; TO AMEND SECTION 63 7 1990, AS AMENDED, RELATING TO CONFIDENTIALITY AND RELEASE OF RECORDS AND INFORMATION, SO AS TO MAKE TECHNICAL CORRECTIONS AND TO AUTHORIZE THE DEPARTMENT OF SOCIAL SERVICES TO GRANT ACCESS TO THE RECORDS OF AN INDICATED CASE TO CERTAIN DESIGNATED MILITARY OFFICIALS AT THE INSTALLATION WHERE THE ACTIVE DUTY SERVICE MEMBER, WHO IS THE SPONSOR OF THE ALLEGED ABUSED OR NEGLECTED CHILD, IS ASSIGNED; AND TO AMEND SECTION 63 11 80, RELATING TO CONFIDENTIAL INFORMATION WITHIN CHILD WELFARE AGENCIES, SO AS TO PROVIDE THAT AN OFFICER, AGENT OR EMPLOYEE OF THE DEPARTMENT OR A CHILD WELFARE AGENCY SHALL NOT DISCLOSE, DIRECTLY OR INDIRECTLY, INFORMATION LEARNED ABOUT A CHILD, THE CHILD'S PARENTS OR RELATIVES, OR OTHER PERSONS HAVING CUSTODY OR CONTROL OF THE CHILD, EXCEPT IN CASES INVOLVING A CHILD IN THE CUSTODY OR CONTROL OF PERSONS WHO HAVE MILITARY AFFILIATION.

Ratified the 3rd day of June, 2015.

Approved the 4th day of June, 2015.

5. Implementation of body-worn cameras for law enforcement: effective June 10, 2015

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23 1 240 SO AS TO DEFINE THE TERM "BODY WORN CAMERA"; TO REQUIRE ALL STATE AND LOCAL LAW ENFORCEMENT OFFICERS TO IMPLEMENT THE USE OF BODY WORN CAMERAS PURSUANT TO GUIDELINES ESTABLISHED BY THE LAW ENFORCEMENT TRAINING COUNCIL; TO REQUIRE STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO SUBMIT POLICIES AND PROCEDURES RELATED TO THE USE OF BODY WORN CAMERAS TO THE LAW ENFORCEMENT TRAINING COUNCIL FOR REVIEW, APPROVAL, OR DISAPPROVAL; TO ESTABLISH A "BODY WORN CAMERAS FUND"; AND TO PROVIDE THAT DATA RECORDED BY A BODY WORN CAMERA IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.

Ratified the 4th day of June, 2015.

Approved the 10th day of June, 2015.

III. SUMMARY

This handout addresses issues across a wide spectrum of legal issues. The cases are summarized to offer the officer a shorter, if not easier version for study.

INSTRUCTIONAL CONTENT BIBLIOGRAPHY

LESSON PLAN TITLE:	LESSON PLAN #:	STATUS (New/Revised):
Legal Update 2015-2016	I0317	New

1. Select case law from the South Carolina Supreme Court.
2. Select case law from the United States Supreme Court.
3. Select case law from the United States Court of Appeals for the Fourth Circuit.
4. Select case law from the South Carolina Court of Appeals.
5. Select South Carolina Statutes and Regulations.