

LEGISLATIVE NOTES

117TH SESSION WRAP-UP

JUNE 2008

DUI BILL is now **ACT NO. 201**: Tiered penalties for the amount of alcohol in the blood *and* for the number of prior offenses. SIGNED BY GOVERNOR 4/15/08. GOES INTO EFFECT FEBRUARY 10, 2009.

H.3058/ACT NO.255: ENHANCED CHARGES FOR CDV OFFENDERS: Out-of-state convictions count as priors, if other state's definition of CDV is consistent with SC law. SIGNED BY THE GOVERNOR 6/4/08. In effect immediately.

H.4601/ACT NO. 271: VICTIM SERVICES & STANDARDS: Allowing additional counseling sessions for victims (SOVA); establishing standardized certification and training for Victim Advocates, to be administered under Crime Victims' Ombudsman's office; defining makeup of Victim Services Coordinating Council. SIGNED BY THE GOVERNOR. Goes into effect 1/1/09.

H.3094: SEX OFFENDER RESIDENCE: (Brady, et al.) Bans convicted child molesters from living within 1,000 feet of places where children gather, e.g. schools, daycares and parks. Bill was amended to lower penalty for failing to register as sex offender (needs to be restored to original 90-day sentence). SIGNED BY THE GOVERNOR 6/16/08.

S.472: IGNITION INTERLOCK DEVICE: SIGNED BY THE GOVERNOR.

H.5001: DV SHELTER PROTECTION. Create the offense of Trespass upon Grounds or Structure of A Domestic Violence Shelter, and provides penalty for trespassing without "legitimate reason or invitation"; amends statute relating to warrantless arrest or search when a person is believed to have committed a CDV offense (to clarify: a warrantless arrest or search may be undertaken by law enforcement when there is PC to believe violation has occurred). SIGNED BY THE GOVERNOR 6/11/08.

S.1099: CDV STUDY COMMITTEE authorized to continue through 2009 session.

S.144: PAROLE REFORM: Joint Resolution: To establish Sentencing Guidelines Commission, to recommend: (1) changes to current sentencing guidelines for offenses allowing more than one year imprisonment: prisoners would be required to serve most of their sentence; (2) "maintaining, amending, or abolishing the current parole system"; and (3) guidelines for alternative sentencing "for offenders for whom traditional imprisonment is not considered

appropriate.” Alternative (“middle”) court for non-violent offenders would be a combination of counseling, treatment and education, with goal of rehabilitation. SIGNED BY THE GOVERNOR 6/11/08.

S.429: DNA General Bill (Malloy & Jackson) **POST-CONVICTION DNA PROCEDURES ACT** (compromise DNA statute) includes:

“**Access to Justice Post-Conviction DNA Testing Act**” (aka Innocence Project); +
“**Preservation of Evidence Act**”; +

***“**South Carolina Protection from Violence Against Women & Children Act,**” which allows DNA sample to be taken after **LAWFUL CUSTODIAL ARREST** for a felony punishable by 5 yrs. or more, or eavesdropping, peeping or stalking; +

“**Unidentified Human Remains DNA Database Act**”: Family members of missing persons may submit DNA samples to SLED); SLED must process DNA samples from human remains unidentified for 30 days, and enter in DNA databases. RATIFIED.

MAYBE NEXT YEAR....

S.1038: CHILD ABUSE: Expands the definition of child abuse or neglect, to include exposure to meth labs.

H.3547: DUTIES OF DSS regarding placement in DSS Central Registry of Child Abuse and Neglect; attached to **H. 4377:** Enhancing coordination between DSS and law enforcement in cases of child abuse and neglect.

H. 3715: SCHOOL OFFICIALS: Criminal Sexual Conduct with Students. Sen. Hutto introduced “Romeo clause” amendment and weaker penalty.

S.127; H.4395: CSC with MINOR –Attempts to fix Jessica’s Law “Romeo Clause”-- several versions; none successful this Session. [Note: USC Children’s Law Office points to an inconsistency between age of consent in Jessica’s Law (CSC w/ Minor 2nd degree) and Lewd Act statutes. Jessica’s Law de-criminalized consensual sex between age 18 or younger w/ 14-15 yr. old. Lewd Act criminalizes sex with child under 16 by person over age 14. Lawmakers need to make age of consent and criminality consistent.] Proposed bills would also remove “mistake of age” as a defense.

***General Bill H.3623 did pass; this bill amends 16-3-655, CSC with Minor, to further revise the elements of the offense of CSC with Minor 2nd Degree (language removes “mistake of age” defense, except for “Romeo” consensual sexual conduct).*

H.4592: CELL PHONE USE WHILE DRIVING (Littlejohn, Cobb-Hunter, Leach, Mahaffey, Pitts, et al.).

H.4824; H.4323: S.1187: ELDER ABUSE: Amendments to Omnibus Adult Protection Act.

S.797: “CHANDLER’S LAW”-ATV Safety.

S.331: TAMPERING WITH A COMMUNICATION DEVICE OR SYSTEM (Knotts & Elliott). To make it unlawful to “disable, destroy, or injure a communication device or communication system during the commission of a crime...”; &

S.338 (Reese, Elliott & Knotts): **SECURITY DEVICE:** To create offense of “tampering with, altering, damaging, or destroying a security device...”

H.4590: Requiring DMV to include DV and Sexual Assault hotline numbers on back of each driver’s license.

H.4910: Animal Protection from Domestic Abuse Act: Allowing Judge to include pets in Order of Protection.

H.3679: Adult Entertainment Fee Proposal: Funds generated from \$5 cover charge on specific sexually-oriented businesses to help finance Sexual Assault Centers, SA research, and management of sex offenders.