

**South Carolina General Assembly**  
123rd Session, 2019-2020

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**Bill 3601**

~~Indicates Matter Stricken~~

Indicates New Matter

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CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

May 20, 2019

**H. 3601**

Introduced by Reps. Rose, McCoy and Caskey

S. Printed 5/7/19--S.

Read the first time March 5, 2019.

**A BILL**

TO AMEND SECTION 16-17-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PUBLIC DISORDERLY CONDUCT, SO AS TO ALLOW AND PROVIDE PROCEDURES FOR CONDITIONAL DISCHARGE FOR FIRST TIME OFFENDERS.

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

SECTION 1. Section 16-17-530 of the 1976 Code is amended to read:

"Section 16-17-530. (A) ~~Any~~ A person who ~~shall (a) be is:~~ (1) found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise ~~conducting~~ conducts himself in a disorderly or boisterous manner;; ~~(b)(2) use~~ uses obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church; or ~~(c)(3) while~~ while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, ~~discharge~~ discharges any gun, pistol, or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, ~~shall be deemed is~~ is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be fined not more than one hundred dollars or be imprisoned for not more than thirty days. However, conditional discharge may be granted by the court in accordance with the provisions of this section upon approval by the circuit solicitor.

(B) When a person who has not previously been convicted of an offense pursuant to this section or any similar offense under any state or federal statute relating to drunk or disorderly conduct pleads guilty to or is found guilty of a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires,

including the requirement that the person cooperate in a treatment and rehabilitation program of a state-supported facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense pursuant to this section. Discharge and dismissal pursuant to this section may occur only once with respect to any person.

(C) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (B), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (B)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after a hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(D) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee to the summary court of one hundred fifty dollars. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination."

SECTION 2. 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.

SECTION 3. This act takes effect upon approval by the Governor.

/s/Sen. Greg Hembree /s/Rep. Peter M. McCoy, Jr.

Sen. Margie Bright Matthews Rep. Marvin R. Pendarvis

/s/Sen. Scott Talley /s/Rep. Seth C. Rose

On Part of the Senate. On Part of the House.

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