

Federal and state laws: Relationship Violence- South Carolina

Domestic Violence Laws

Domestic Violence

Domestic violence is abusive behavior between two people who have:

- married
- lived together
- a child in common

Abusive behavior includes:

- causing or threatening physical harm
- committing a sexual criminal offense

Statutes

South Carolina Law

Domestic Violence Statutes

TITLE 20. DOMESTIC RELATIONS
CHAPTER 4. PROTECTION FROM DOMESTIC ABUSE
ARTICLE 1. PROTECTION FROM DOMESTIC ABUSE

§ 20-4-20. Definitions.

As used in this chapter:

(a) "Abuse" means:

- (1) Physical harm, bodily injury, assault, or the threat of physical harm;
- (2) Sexual criminal offenses, as otherwise defined by statute, committed against a family or household member by a family or household member;

(b) "Household member" means:

- (i) a spouse;
- (ii) a former spouse;
- (iii) persons who have a child in common;
- (iv) [persons] who are cohabiting or formerly have cohabited.

.... [Content omitted for clarity]

TITLE 16. CRIMES AND OFFENSES

CHAPTER 3. OFFENSES AGAINST THE PERSON

ARTICLE 7. ASSAULT AND CRIMINAL SEXUAL CONDUCT

§ 16-3-615. Spousal sexual battery.

(A) Sexual battery, as defined in Section 16-3-651(h), when accomplished through use of aggravated force, defined as the use or the threat of use of a weapon or the use or threat of use of physical force or physical violence of a high and aggravated nature, by one spouse against the other spouse if they are living together, constitutes the felony of spousal sexual battery and, upon conviction, a person must be imprisoned not more than ten years.

(B) The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for that spouse to be prosecuted for this offense.

.... [Content omitted for clarity]

§ 16-3-658. Criminal sexual conduct: where victim is spouse.

A person cannot be guilty of criminal sexual conduct under Sections 16-3-651 through 16-3-659.1 if the victim is the legal spouse unless the couple is living apart and the offending spouse's conduct constitutes criminal sexual conduct in the first degree or second degree as defined by Sections 16-3-652 and 16-3-653.

The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for a person to be prosecuted for these offenses.

.... [Content omitted for clarity.]

TITLE 16. CRIMES AND OFFENSES

CHAPTER 25. CRIMINAL DOMESTIC VIOLENCE

ARTICLE 1. GENERAL PROVISIONS

§ 16-25-20. Acts prohibited; penalties.

(A) It is unlawful to:

- (1) cause physical harm or injury to a person's own household member; or

- (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.
- (B) Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection A and:
- (1) 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;
 - (2) the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;
 - (3) has two or more prior convictions of domestic violence within ten years of the current offense;
 - (4) the person uses a firearm in any manner while violating the provisions of subsection (A); or
 - (5) 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.

A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(C) A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) 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;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree;

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) 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.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser-included offense of domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

Assault and battery in the second degree pursuant to Section 16-3-600(D) is a lesser-included offense of domestic violence in the second degree as defined in this subsection.

(D) A person commits the offense of domestic violence in the third degree if the person violates subsection (A).

(1) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than ninety days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense pursuant to the provisions of this subsection may be tried in summary court.

(2) Domestic violence in the third degree is a lesser-included offense of domestic violence in the second degree, as defined in subsection (C), domestic violence in the first degree, as defined in

subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(3) Assault and battery in the third degree pursuant to Section 16-3-600(E) is a lesser-included offense of domestic violence in the third degree as defined in this subsection.

.... *[Content omitted for clarity]*

.... *[Content omitted for clarity]*

(H) A person who violates the terms and conditions of an order of protection issued in this State under Chapter 4, Title 20, the "Protection from Domestic Abuse Act", or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

.... *[Content omitted for clarity]*

§ 16-25-65. Criminal domestic violence of a high and aggravated nature; elements; penalty; conditional probation; statutory offense.

(A) A person who violates Section 16-25-20(A) is guilty of the offense of domestic violence of a high and aggravated nature when one of the following occurs. The person:

(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.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years.

(C) The provisions of subsection (A) create a statutory offense of domestic violence of a high and aggravated nature and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature.

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

- (1) using a deadly weapon;
- (2) knowingly and intentionally impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member and thereby causing stupor or loss of consciousness for any period of time;
- (3) committing the offense in the presence of a minor;
- (4) committing the offense against a person he knew, or should have known, to be pregnant;
- (5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or
- (6) using physical 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:
 - (a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or
 - (b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

§ 16-25-70. Warrantless arrest or search; admissibility of evidence.

(A) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16-25-20, 16-25-65, or 16-25-125. [Trespass upon domestic violence shelter grounds or structure], even if the act did not take place in the presence of the officer ... *[content omitted for clarity]*

(B) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has

freshly committed a misdemeanor or felony under the provisions of Section 16-25-20, or 16-25-65 even if the act did not take place in the presence of the officer ... *[content omitted for clarity]*

(C) In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is reasonably necessary to prevent physical harm or danger to a family or household member.

(D) If a law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, the officer must evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer must not arrest the other person accused of having committed domestic or family violence ... *[content omitted for clarity]*

.... *[Content omitted for clarity]*