**South Carolina’s criminal domestic violence law**

**CHAPTER 25. CRIMINAL DOMESTIC VIOLENCE**

**ARTICLE 1. GENERAL PROVISIONS**

**SECTION 16-25-10. "Household member" defined. [SC ST SEC 16-25-10]**

**As used in this article, "household member" means:**

**(1) a spouse;**

**(2) a former spouse;**

**(3) persons who have a child in common; or**

**(4) a male and female who are cohabiting or formerly have cohabited.**

**HISTORY: 1984 Act No. 484, § 1; 1994 Act No. 519, § 1; 2003 Act No. 92, § 3, eff January 1, 2004; 2005 Act No. 166, § 1, eff January 1, 2006.**

**SECTION 16-25-20. Acts prohibited; penalties; criminal domestic violence conviction in another state as prior offense. [SC ST SEC 16-25-20]**

**(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 who violates the provisions of subsection (A) is guilty of the offense of criminal domestic violence and, upon conviction, must be punished as follows:**

**(1) for a first offense, the person is guilty of a misdemeanor and must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than thirty days. The court may suspend the imposition or execution of all or part of the fine conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16-25-20(H), a program designed to treat batterers. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense pursuant to the provisions of this subsection must be tried in summary court;**

**(2) for a second offense, the person is guilty of a misdemeanor and must be fined not less than two thousand five hundred dollars nor more than five thousand dollars and imprisoned not less than a mandatory minimum of thirty days nor more than one year. The court may suspend the imposition or execution of all or part of the sentence, except the thirty-day mandatory minimum sentence, conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16-25-20(H), a program designed to treat batterers. If a person is sentenced to a mandatory minimum of thirty days pursuant to the provisions of this subsection, the judge may provide that the sentence be served two days during the week or on weekends until the sentence is completed and is eligible for early release based on credits he is able to earn during the service of his sentence, including, but not limited to, good-time credits;**

**(3) for a third or subsequent offense, the person is guilty of a felony and must be imprisoned not less than a mandatory minimum of one year but not more than five years.**

**(C) For the purposes of subsections (A) and (B), a conviction within the previous ten years for a violation of subsection (A), Section 16-25-65, or a criminal domestic violence offense in another state which includes similar elements to the provisions of subsection (A) or Section 16-25-65, constitutes a prior offense. A conviction for a violation of a criminal domestic violence offense in another state does not constitute a prior offense if the offense is committed against a person other than a "household member" as defined in Section 16-25-10.**

**(D) 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.**

**(E) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case.**

**(F) When a person is convicted of a violation of Section 16-25-65 or sentenced pursuant to subsection (C), the court may suspend execution of all or part of the sentence, except for the mandatory minimum sentence, and place the offender on probation, conditioned upon:**

**(1) the offender completing, to the satisfaction of the court, a program designed to treat batterers;**

**(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16-25-65; and**

**(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim.**

**(G) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.**

**(H) An offender who participates in a batterer treatment program pursuant to this section, must participate in a program offered through a government agency, nonprofit organization, or private provider approved by the Department of Social Services. The offender must pay a reasonable fee for participation in the treatment program but no person may be denied treatment due to inability to pay. If the offender suffers from a substance abuse problem, the judge may order, or the batterer treatment program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61-12-20. The offender must pay a reasonable fee for participation in the substance abuse treatment program, but no person may be denied treatment due to inability to pay.**

**HISTORY: 1984 Act No. 484, § 1; 1994 Act No. 519, § 1; 2003 Act No. 92, § 3, eff January 1, 2004; 2005 Act No. 166, § 2, eff January 1, 2006; 2008 Act No. 255, § 1, eff June 4, 2008.**