

**2015 Act No. [TBD] (R80, S3): Summary of ONLY Domestic Violence Statutes Impacted by Domestic Violence Reform Act**

Act Signed by Governor June 4, 2015 (*Effective Date: June 4, 2015*)

*Conduct occurring on and after June 4, 2015, MUST be charged under new/amended statutes.  
Conduct occurring before June 4 MUST be charged under law as it existed at the time the conduct occurred.*

WHAT DOES	OVERVIEW	SPECIFICS
<p><b>Amends §16-25-10</b> (<i>definitions</i>)</p>	<p>Definitions for DV crimes</p>	<p>Defines terms for new DV offenses: deadly weapon, great bodily injury (GBI), moderate bodily injury (MBI), prior conviction of domestic violence, protection order (PO), and firearm.</p>
<p><b>Amends §16-25-20</b> (<i>DV crimes</i>)</p>	<ul style="list-style-type: none"> <li>• Totally rewrites and renames CDV offenses – renames as “domestic violence” and creates three degrees of the offense;</li> <li>• Makes all lower degrees of DV lesser-included offenses of the greater degree(s) and of DVHAN (16-25-20 (B)(C) and (D));</li> <li>• Makes sentences for all degrees suspend-able with specific requirements for probation (16-25-20 (E));</li> <li>• Provides requirements for domestic violence intervention programs (16-25-20(G));</li> <li>• Creates crime for violating conditions of PO (16-25-20(H)); and</li> <li>• Defendant is to appear in court or be tried in absence unless charge dismissed prior to court date (16-25-20(I)).</li> </ul> <p><i>Also see Article 18 to Chapter 3, Title 16 created by the Act (creates §§16-3-1900 – 1920 addressing permanent and emergency restraining orders.</i></p>	<p>Creates new crime of DV, with 3 degrees. <b>Base requirement for ALL degrees</b> of DV is physical harm/injury to household member or the offer/attempt to cause such with apparent present ability under circumstances reasonably creating fear of imminent peril.</p> <p>To establish each of the new 3 degrees of DV need, must <b>also</b> establish:</p> <p><b>1<sup>st</sup> degree DV</b> (felony: 0-10 years) (§16-25-20(B)): either</p> <ol style="list-style-type: none"> <li>1. GBI resulted or act accomplished by means likely to result in such; or</li> <li>2. defendant commits 2<sup>nd</sup> degree DV while violating PO; or</li> <li>3. 2 or more prior convictions of DV within 10 years of current; or</li> <li>4. defendant used firearm in any manner while causing or attempting/offering to cause physical harm/injury; or</li> <li>5. defendant committed 2<sup>nd</sup> degree DV against pregnant victim; in presence of minor; during commission of a robbery, burglary, kidnapping, or theft; offense committed by impeding victim’s breathing or airflow; or offense committed using physical force or threatened us of force to block access to phone/communication device for purpose of preventing/obstructing/interfering with report of any crime/bodily injury/property damage to a LEA or request for ambulance/emergency medical assistance from a LEA/emergency medical provider.</li> </ol> <p><b>2<sup>nd</sup> degree DV</b> (misdemeanor: 0-3 years &amp;/or \$2,500-5,000)(§16-25-20(C)):</p> <ol style="list-style-type: none"> <li>1. MBI resulted or act accomplished by means likely to result in such; or</li> <li>2. defendant commits 3<sup>rd</sup> degree DV while violating PO; or</li> <li>3. defendant has 1 prior DV conviction within 10 years of current; or</li> <li>4. defendant committed 3<sup>rd</sup> degree DV against pregnant victim; in presence of minor; during commission of a robbery, burglary, kidnapping, or theft; offense committed by impeding victim’s breathing or airflow; offense committed using physical force or threatened us of force to block access to phone/communication device for purpose of preventing/obstructing/interfering with report of any crime/bodily injury/property damage to a LEA or request for ambulance/emergency medical assistance from a LEA/emergency medical provider.</li> </ol> <p><b>3<sup>rd</sup> degree DV</b> (misdemeanor: 0-90 days &amp;/or \$1,000-2,500)(§16-25-20(D)):</p> <ul style="list-style-type: none"> <li>• No additional elements – all need show is base requirement above.</li> </ul> <p><b>Creates crime for violating conditions of PO</b> issued in SC or another state (misdemeanor: 0-30 days <i>and</i> 0-\$500)</p>
<p><b>Amends §16-25-30</b> (<i>firearm possession</i>)</p>	<p>Totally rewrote statute dealing with possession of firearm by person convicted of DV</p> <p><i>Also see Article 18 to Chapter 3, Title 16 created</i></p>	<p>Unlawful for person to ship, transport, receive or possess firearm or ammunition (hereafter “STRPFA”) if:</p> <ul style="list-style-type: none"> <li>• convicted of DVHAN or 1<sup>st</sup> degree DV or equivalent in another state (felony: 0-5 years and/or \$0-2,500); or</li> <li>• convicted of 2<sup>nd</sup> degree DV or equivalent in another state, and trial court made specific findings and concluded defendant caused MBI (misdemeanor: 0-3 years and/or \$0-1,000); or</li> <li>• convicted of 2<sup>nd</sup> or 3<sup>rd</sup> degree DV and trial court at sentencing ordered could not STRPFA (misdemeanor: 0-3 years and/or \$0-1,000); or</li> <li>• convicted of DV in another state containing the elements of 2<sup>nd</sup> or 3<sup>rd</sup> degree DV and trial court at sentencing ordered could not STRPFA (misdemeanor: 0-3 years and/or \$0-1,000); or</li> <li>• if subject to valid PO issued by family court or court of another state, which made specific findings of physical harm, BI, assault or that person offered/attempted to cause physical harm/injury to household member with present ability under circumstances reasonable creating fear of imminent peril <i>and</i> court ordered could not STRPFA (misdemeanor: 0-30 days and/or \$0-500).</li> </ul> <p>Person not considered convicted of DV unless was represented by counsel or</p>

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WHAT DOES	OVERVIEW	SPECIFICS
		<ul style="list-style-type: none"> <li>Duration of order of protection for persons subject to PO from SC or another state.</li> </ul> Eligibility and requirements for restoration of right to STRPFA addressed in §16-25-30(F).
<p><b>Amends §16-25-65</b> (<i>DV crime</i>)</p>	<ul style="list-style-type: none"> <li>Changes CDVHAN to DVHAN, totally rewrites elements of crime; and changes punishment.</li> </ul> <p><i>Also see Article 18 to Chapter 3, Title 16 created by the Act (creates §§16-3-1900 – 1920 addressing permanent and emergency restraining orders</i></p>	To establish DVHAN, must show Defendant violated 16-25-20 (A) (physical harm/injury to household member or the offer/attempt to cause such with apparent present ability under circumstances reasonably creating fear of imminent peril), and one of the following occurs: <ol style="list-style-type: none"> <li>offense committed under circumstances manifesting extreme indifference to value of human life and GBI results; or</li> <li>offense committed, <i>with or without</i> accompanying battery, and under circumstances manifesting extreme indifference to value of human life and would reasonably cause person to fear GBI or death; or</li> <li>defendant commits 1<sup>st</sup> degree DV while violating PO.</li> </ol> Provides that “circumstances manifesting extreme indifference to value of human life” include, but are not limited to: use of deadly weapon; DV against pregnant victim; in presence of minor; during commission of a robbery, burglary, kidnapping, or theft; offense committed by impeding victim’s normal breathing or blood circulation by applying pressure to throat/neck or obstructing nose/mouth causing stupor/loss of consciousness for any period of time; and offense committed using physical force or threatened us of force to block access to phone/communication device for purpose of preventing/obstructing/interfering with report of any crime/bodily injury/property damage to a LEA or request for ambulance/emergency medical assistance from a LEA/emergency medical provider. <p>DVHAN is felony, punishable by 0-20 years.</p>
<b>Amends §16-1-60</b>	Violent crimes listing	Changes reference to CDVHAN to DVHAN and adds 1 <sup>st</sup> Degree DV.
<b>Amends §17-25-45(C)(2)</b>	Serious offenses listing	Adds DVHAN and 1 <sup>st</sup> Degree DV to list of “serious offenses.”
<b>Amends §56-7-10 (A)</b>	Use of traffic tickets	Only 2 <sup>nd</sup> and 3 <sup>rd</sup> degree DV may be charged on traffic ticket.
<b>Amends §16-3-600 (A)(2)</b> ( <i>A&amp;B crimes</i> )	Changes definition of MBI	Changes definition of MBI for assault and battery crimes to conform to new definition included in DV crimes.
<b>Amends §17-15-30 (Bond)</b>	<ul style="list-style-type: none"> <li>Adds “individual” to “danger to community”</li> </ul>	Adds “individual” after “danger to community” to clarify danger to victim is to be bond consideration. (§17-15-10(A))
<b>Amends §17-15-30 (Bond)</b>	<ul style="list-style-type: none"> <li>Same as above; and</li> <li>changes timing of and requirements for bond hearings on DV charges</li> </ul>	Adds “individual” so danger to victim is consideration. Bond hearing on a violation of Chapter 25, Title 16 must occur within 24 hours after arrest and may not proceed without the defendant’s criminal record and incident report/presence of arresting officer.
<b>Amends §22-5-510 (Bond)</b>	<ul style="list-style-type: none"> <li>Same as above</li> </ul>	Same as above
<b>Amends §16-25-120 (A) &amp; (B)</b> ( <i>Bond</i> )	<ul style="list-style-type: none"> <li>makes consideration of factors listed in section (B) mandatory</li> </ul>	“May” changed to “must” in both sections (A) and (B) to make consideration of factors listed in section (B) mandatory for courts setting bond in cases involving a violent offense as defined in §16-1-60, when the victim is a household member, and the defendant, at the time of the offense for which bond being set, was either subject to a protection or restraining order or had been convicted of violating a protection or restraining order. <i>NOTE: offense does <b>not</b> have to be charged as a DV crime.</i>
<b>Amends §17-15-50 (Bond)</b>	Addresses jurisdiction	Clarifies only court with jurisdiction of offense may change bond conditions.
<b>Amends §17-15-55 (Bond)</b>	Adds subsection addressing concurrent jurisdiction	Summary court has concurrent jurisdiction with circuit court for 10 days from date it first sets bond to determine if bond should be revoked.
<b>Amends §16-25-70 (A) and (B)</b> ( <i>Warrantless arrests &amp; reports</i> )	<ul style="list-style-type: none"> <li>Requires documentation of investigations; and</li> <li>Changes obligation to make arrest</li> </ul>	Requires that an incident report must be prepared if a LEA arrests someone for a DV offense. (§16-25-70(A)) Amends §16-25-70(B) to make arrest discretionary if an officer sees physical manifestations of injury, and provide that an arrest may not be made if an officer determines that PC does not exist.