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R419, H4456

STATUS INFORMATION

General Bill

Sponsors: Reps. Harrison and Haley

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Introduced in the Senate on April 26, 2006

Last Amended on June 1, 2006

Passed by the General Assembly on June 1, 2006

Became law without Governor's signature, June 14, 2006

Summary: Crimestoppers Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/18/2006	House	Introduced and read first time HJ-178
1/18/2006	House	Referred to Committee on Judiciary HJ-179
4/19/2006	House	Committee report: Favorable with amendment Judiciary HJ-44
4/21/2006		Scrivener's error corrected
4/25/2006	House	Amended HJ-62
4/25/2006	House	Debate adjourned HJ-65
4/25/2006	House	Debate adjourned HJ-73
4/25/2006	House	Debate adjourned HJ-112
4/25/2006	House	Amended HJ-170
4/25/2006	House	Read second time HJ-171
4/26/2006	House	Read third time and sent to Senate HJ-13
4/26/2006		Scrivener's error corrected
4/26/2006	Senate	Introduced and read first time SJ-7
4/26/2006	Senate	Referred to Committee on Judiciary SJ-7
4/26/2006	Senate	Referred to Subcommittee: Hawkins (ch), Cromer, Sheheen, Lourie
5/24/2006	Senate	Committee report: Favorable with amendment Judiciary SJ-17
5/25/2006	Senate	Amended SJ-70
5/25/2006	Senate	Read second time SJ-70
5/31/2006	Senate	Read third time and returned to House with amendments
6/1/2006	House	Debate adjourned on amendments HJ-42
6/1/2006	House	Senate amendment amended HJ-182
6/1/2006	House	Returned to Senate with amendments HJ-182
6/1/2006	Senate	Concurred in House amendment and enrolled SJ-13
6/7/2006		Ratified R 419
6/14/2006		Became law without Governor's signature

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VERSIONS OF THIS BILL

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(R419, H4456)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 50 TO TITLE 23 SO AS TO ENACT THE SOUTH CAROLINA CRIMESTOPPERS ACT, TO PROVIDE FOR THE PURPOSE OF CRIMESTOPPER ORGANIZATIONS, TO PROVIDE FOR DEFINITIONS OF VARIOUS TERMS CONTAINED IN THIS CHAPTER, TO ESTABLISH THE SOUTH CAROLINA CRIMESTOPPERS COUNCIL AND ITS DUTIES, TO PROVIDE THAT A COURT MAY ORDER A DEFENDANT TO REPAY TO A CRIMESTOPPERS ORGANIZATION OR TO THE CRIMESTOPPERS COUNCIL A REWARD ISSUED BY EITHER ENTITY, TO PROVIDE FOR THE REIMBURSEMENT OF MONIES PAID BY CRIMESTOPPERS ORGANIZATION OR THE CRIMESTOPPERS COUNCIL FOR INFORMATION THAT RESULTS IN THE ARREST OF AN INDIVIDUAL WHERE MONIES ARE CONFISCATED AND FORFEITED PURSUANT TO AN ARREST, TO PROVIDE FOR THE MAINTENANCE AND DISBURSEMENT OF FUNDS REIMBURSED TO A CRIMESTOPPERS ORGANIZATION, TO PROVIDE FOR THE ADMISSIBILITY AND THE RELEASE OF CERTAIN EVIDENCE, PROTECTED INFORMATION, AND PROTECTED IDENTITIES IN A COURT PROCEEDING, TO PROVIDE THAT IT IS UNLAWFUL FOR CERTAIN PERSONS TO INTENTIONALLY OR KNOWINGLY DIVULGE CERTAIN PRIVILEGE COMMUNICATION, PROTECTED INFORMATION, OR A PROTECTED IDENTITY UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE IMMUNITY FROM CIVIL LIABILITY FOR CERTAIN PERSONS WHO COMMUNICATE WITH, ACT ON PRIVILEGED COMMUNICATION, OR ARE OFFICERS OR EMPLOYEES OF A CRIMESTOPPERS ORGANIZATION OR THE CRIMESTOPPERS COUNCIL; TO AMEND SECTION 30-4-40, AS AMENDED, RELATING TO MATTERS EXEMPT FROM DISCLOSURE BY A PUBLIC BODY, SO AS TO PROVIDE

THAT A PUBLIC BODY MAY NOT DISCLOSE A PRIVILEGED COMMUNICATION, PROTECTED INFORMATION, OR A PROTECTED IDENTITY EXCEPT UNDER CERTAIN CONDITIONS; TO REPEAL SECTION 44-53-583 RELATING TO REIMBURSEMENT OF CERTAIN MONIES TO A CRIMESTOPPERS ORGANIZATION; TO AMEND SECTION 16-3-1525, AS AMENDED, RELATING TO A LAW ENFORCEMENT AGENCY'S, PROSECUTING AGENCY'S, AND THE COURT'S DUTY TO ATTEMPT TO PROVIDE A CRIME VICTIM AND CERTAIN OTHER AGENCIES INFORMATION ABOUT AN ARRESTED PERSON, SO AS TO REVISE THE METHODS OF PROVIDING THIS INFORMATION TO CERTAIN CRIME VICTIMS, AND TO DEFINE THE TERM "PATTERN"; AND TO AMEND SECTION 16-3-1230, RELATING TO A CLAIM FOR AN AWARD FROM THE VICTIM'S COMPENSATION FUND FILED ON BEHALF OF A PERSON WHO IS A MINOR OR INCOMPETENT, SO AS TO REVISE THE INSTANCES UPON WHICH A CLAIM MAY BE FILED, AND TO REVISE THE CIRCUMSTANCES WHEN THE DEADLINE FOR FILING A CLAIM MAY BE EXTENDED.

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

South Carolina Crimestoppers Act

SECTION 1. Title 23 of the 1976 Code is amended by adding:

"CHAPTER 50

South Carolina Crimestoppers Act

Section 23-50-10. Crimestoppers organizations provide the opportunity for citizens to report crime tips to law enforcement agencies anonymously by using a crimestoppers organization as an intermediary to receive the tips. The ability to report anonymous crime tips enhances the quality of life for the citizens of South Carolina by increasing the efficiency of law enforcement. Crimestoppers is a collaboration between local, state, and federal law enforcement, the media, and the citizenry to remove the criminal elements from the streets of South Carolina.

Section 23-50-15. As used in this chapter:

(A) 'Council' means the South Carolina Crimestoppers Council.

(B) 'Crimestoppers organization' means a private, nonprofit corporation that is organized under the laws of South Carolina that is operated on a local or statewide level, that accepts and expends donations for rewards to persons who report to the organization information about suspected criminal activity, that forwards the information to the appropriate law enforcement agency, is a member of the council, and that is qualified to receive reimbursed funds pursuant to Section 23-50-30.

(C) 'Privileged communication' means a statement by any person, in any manner whatsoever, to a crimestoppers organization or to the council for the purpose of reporting alleged criminal activity and a communication from a crimestoppers organization or the council relaying the information received to a law enforcement agency.

(D) 'Protected information' means any records, oral, written, or recorded statements, papers, documents, or any materials utilized by a crimestoppers organization or the council in reporting suspected criminal activity or in processing such information, whether such information is in the possession of a crimestoppers organization, the council, or a law enforcement agency receiving such information from a crimestoppers organization or the council.

(E) 'Protected identity' means the identity of any person reporting suspected criminal activity to a crimestoppers organization or to the council.

(F) 'Reimbursed funds' means funds reimbursed pursuant to Section 23-50-30.

Section 23-50-20. (A) The council shall be a South Carolina nonprofit corporation in good standing and shall operate in accordance with the laws governing corporations in the State of South Carolina.

(B) The council may adopt rules and certification standards to carry out its functions under this chapter.

(C) The council shall send a report to the Attorney General not later than April fifteenth of each year that shall, at a minimum, report on the activities carried out by the council in carrying out its duties as set forth in Section 23-50-25.

Section 23-50-25. The council shall:

(1) encourage, advise, and assist in the creation of crimestoppers organizations;

(2) foster the detection of crime and encourage persons to report information about criminal acts;

(3) encourage news and other media to broadcast reenactments and to inform the public of the functions of crimestoppers organizations' operations and programs;

(4) promote the process of crimestoppers organizations to forward information about criminal acts to the appropriate law enforcement agencies;

(5) help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies;

(6) approve applicants to become members of the council as crimestoppers organizations;

(7) foster creation of crimestoppers organizations; and

(8) certify crimestoppers organizations to receive reimbursed funds.

Section 23-50-30. (A) The council shall certify a crimestoppers organization to receive reimbursed funds if, considering the organization, continuity, leadership, community support, and general conduct of the crimestoppers organization, the council determines that the repayments or payments will be spent to further the crime prevention purposes of the organization.

(B) Certification of a crimestoppers organization to receive reimbursed funds is valid for a period of two years. The council shall decertify a crimestoppers organization to receive reimbursed funds if the council determines that the crimestoppers organization no longer meets the certification requirements to receive reimbursed funds.

Section 23-50-35. (A) After a defendant has been convicted of a criminal offense or as a condition of placing a person on probation, or both, the judge of any court of applicable jurisdiction may order a defendant to repay all or part of a reward, not to exceed two thousand dollars, paid by a crimestoppers organization or the council.

In determining whether the defendant must repay the reward or part of the reward, the court shall consider:

(1) the ability of the defendant to make the payment and the financial hardship on the defendant to make the required payment; and

(2) the importance of the information to the prosecution of the defendant as provided by the arresting officer or the attorney for the State with due regard for the confidentiality of the crimestoppers organization records.

(B) Monies paid by a crimestoppers organization or the council for information that results in the arrest of any individual or individuals where monies are also confiscated and subsequently forfeited pursuant to Section 44-53-520 must be reimbursed from the forfeited monies to

the crimestoppers organization making the payment or to the council upon a determination that the money paid was used for information that resulted in the arrest and forfeiture. If the forfeiture is the result of:

(1) a court proceeding, the determination that the money paid was used for information that resulted in the arrest and forfeiture must be made by the presiding judge;

(2) an agreement, the determination that the money paid was used for information that resulted in the arrest and forfeiture must be made by the Attorney General or his designee.

(C) Reimbursements must be for the amount paid, not to exceed two thousand dollars.

(D) Reimbursements to the council or to a crimestoppers organization are subordinate to payments that may be ordered to be paid to victims of crimes as restitution.

Section 23-50-40. (A) Except as provided by subsection (D), a crimestoppers organization may not use more than twenty percent of the reimbursed funds received annually to pay costs incurred in administering the organization and shall use the remainder of the reimbursed funds, including any interest earned on the reimbursed funds, only to reward persons who report information concerning criminal activity. Not later than January thirty-first of each year, a crimestoppers organization that receives or expends reimbursed funds shall file a detailed report with the council.

(B) A crimestoppers organization shall establish a separate reward account for reimbursed funds received.

(C) Not later than the sixtieth day after the date of dissolution or decertification of a funds-certified crimestoppers organization, a dissolved or decertified organization shall forward all unexpended reimbursed funds to the council. The council shall distribute any funds received pursuant to this section in furtherance of its duties as set forth in Section 23-50-25.

(D) If the amount of the reimbursed funds received by a crimestoppers organization exceeds three times the amount of rewards paid during a fiscal year based on the average amount of funds used to pay rewards during each of the preceding three fiscal years, the organization may deposit the excess amount of funds in a separate interest-bearing account to be used by the organization for law enforcement purposes relating to crimestoppers or juvenile justice, including intervention, apprehension, and adjudication. An organization that deposits excess funds in an account as provided by this subsection may use any interest earned on the funds to pay costs incurred in administering the organization.

Section 23-50-45. (A) Except as otherwise provided by this section, evidence of privileged communications, protected information, and protected identities is not admissible in a civil proceeding unless good cause is shown to the court.

(B) In a criminal proceeding, the State or another prosecuting authority must provide the defendant with any information obtained via crimestoppers as required by Rule 5 of the South Carolina Rules of Criminal Procedure, Brady, or any other law or rule governing the disclosure of information to criminal defendants.

(C) In a civil matter pending in the court of common pleas, the plaintiff may seek release of the protected information or privileged communication by motion to the court of common pleas having jurisdiction. Protected information and privileged communications may not be released for matters pending in any civil courts other than the court of common pleas. The plaintiff may seek release of protected information or privileged communication by showing good cause to the court of common pleas.

(D) When a request is made for the release of protected information or a privileged communication in a civil proceeding:

(1) the court may issue an order requiring the privileged communication or protected information to be turned over to the court. The court shall conduct an in camera inspection of materials provided to determine whether good cause for use in the civil proceeding has been shown;

(2) the court will provide the evidence to the parties in a form that does not disclose a protected identity, unless deemed necessary. The court may issue such additional protective orders as it deems appropriate; and

(3) the court shall return to the council or crimestoppers organization the materials that are produced but not disclosed. The council or crimestoppers organization shall store the materials at least until the first anniversary of the following appropriate date:

(a) the date of expiration of the time for all direct appeals in a criminal case; or

(b) the date a plaintiff's right to appeal in a civil case is exhausted.

(E) Nothing contained in this section creates a duty for a crimestoppers organization or the council to maintain records in a form that identifies a privileged identity.

Section 23-50-50. (A) A person who is a member or employee of the council, a crimestoppers organization, or a law enforcement agency

who has knowledge of, or the contents of, or both of (1) a privileged communication, (2) protected information, or (3) a protected identity, or all three, commits an offense if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the content or existence of (1) a privileged communication, (2) protected information, or (3) a protected identity, or all three, without the consent of the person who made the privileged communication.

(B) An offense under this section is a misdemeanor punishable by a fine not to exceed one thousand dollars or up to one year in jail, or both, for each occurrence. However, an offense under this section is a Class F felony punishable by not more than five years imprisonment if the offense is committed with intent to obtain monetary gain or other benefit.

(C) Disclosing information pursuant to a valid court order is not an offense under this section.

Section 23-50-55. (A) A person who communicates a privileged communication to the council or a crimestoppers organization is immune from civil liability for damages resulting from the privileged communication unless the communication was grossly negligent or done with conscious indifference or reckless disregard for the rights of others.

(B) A person who in the course and scope of the person's duties or functions receives, forwards, or acts on a privileged communication or protected record is immune from civil liability for damages resulting from an act or omission in the performance of the person's duties or functions unless the act or omission was grossly negligent, or done with conscious indifference or reckless disregard for the rights of others.

(C) Members, officers, directors, employees, and agents of the council and certified crimestoppers organizations are immune from civil liability for damages resulting from an act or omission in the performance of the person's duties or functions unless the act or omission was grossly negligent, or done with conscious indifference or reckless disregard for the rights of others.

(D) Only crimestoppers organizations that are members of and in good standing with the council are the beneficiaries of the immunities contained in this section.

(E) Crimestoppers organizations that fail to meet the requirements set forth by the council, fail to maintain membership in the council, or fail to maintain their nonprofit status under applicable statutes and regulations and their members, officers, directors, employees, and agents lose their immunity from civil liability as set forth in this section

from the point in time that any of the above listed events occurs. The immunities for actions taken prior to a listed event occurring remain.”

Disclosure of certain information by a public body

SECTION 2. Section 30-4-40 of the 1976 Code, as last amended by Act 125 of 2005, is further amended by adding at the end:

“(d) A public body may not disclose a ‘privileged communication’, ‘protected information’, or a ‘protected identity’, or both, as defined in Section 23-50-15 pursuant to a request under the South Carolina Freedom of Information Act. These matters may only be disclosed pursuant to the procedures set forth in Section 23-50-45.”

Repeal

SECTION 3. Section 44-53-583 of the 1976 Code is repealed.

Crime victim notification

SECTION 4. Section 16-3-1525(N) of the 1976 Code, as added by Act 106 of 2005, is amended to read:

“(N)(1) Notification of a victim pursuant to the provisions of this section may be by electronic or other automated communication or recording. However, after three unsuccessful attempts to reach the victim in cases involving criminal domestic violence, criminal sexual conduct, and stalking and harassment, and those cases when physical injury has occurred as a result of a physical or sexual assault and in cases where a pattern of conduct exists by the offender or suspected offender that would cause a reasonable person to believe he may be at risk of physical assault the appropriate agency or diversion program shall attempt to make personal contact with the victim, or the victim’s guardian, upon the judicial or administrative release or the escape of the offender.

(2) For purposes of this section, ‘pattern’ means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.”

Victim’s compensation fund claim

SECTION 5. Section 16-3-1230 of the 1976 Code is amended to read:

“Section 16-3-1230. (1) A claim may be filed by a person eligible to receive an award, as provided in Section 16-3-1210, or, if the person is an incompetent or a minor, by his parent or legal guardian or other individual authorized to administer his affairs.

(2) A claim must be filed by the claimant not later than one hundred eighty days after the latest of the following events:

- (a) the occurrence of the crime upon which the claim is based;
- (b) the death of the victim;
- (c) the discovery by the law enforcement agency that the occurrence was the result of crime; or
- (d) the manifestation of a mental or physical injury is diagnosed as a result of a crime committed against a minor.

(3) Upon good cause shown, the time for filing may be extended for a period not to exceed four years after the occurrence, diagnosed manifestation, or death. ‘Good cause’ for the above purposes includes reliance upon advice of an official victim assistance specialist who either misinformed or neglected to inform a victim of rights and benefits of the Victim’s Compensation Fund but does not mean simply ignorance of the law.

(4) Claims must be filed in the office of the deputy director by mail or in person. The deputy director shall accept for filing all claims submitted by persons eligible pursuant to subsection (1) and meeting the requirements as to the form of the claim contained in the regulations of the board.”

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 7th day of June, 2006.

President of the Senate

Speaker of the House of Representatives

Approved the _____ day of _____ 2006.

Governor

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