

EXECUTIVE ORDER NO.

2022-15

WHEREAS, on May 16, 2022, a Grand Jury convened in Oconee County returned two Indictments charging Matthew Durham, a member of Oconee County Council, with Unlawful Neglect of Child, in violation of section 63-5-70 of the South Carolina Code of Laws, as amended, and one count of Domestic Violence, Second Degree, in violation of section 16-25-20(C) of the South Carolina Code of Laws, as amended; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

WHEREAS, Matthew Durham, as a member of Oconee County Council, is an officer of the State or its political subdivisions; and

WHEREAS, under South Carolina law, moral turpitude “implies something immoral in itself, regardless of whether it is punishable by law as a crime,” involves “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man,” or otherwise includes conduct “contrary to justice, honesty[,] and good morals,” *State v. Horton*, 271 S.C. 413, 414–15, 248 S.E.2d 263, 263–64 (1978); *see also Baddourah v. McMaster*, 433 S.C. 89, 112, 856 S.E.2d 561, 573 (2021) (“Under South Carolina’s moral turpitude framework, we focus ‘primarily on the duty to society and fellow man [that] is breached by the commission of the crime.’”); and

WHEREAS, upon consideration of the circumstances presented, to include the particularized facts alleged in the Indictments and the statutory definition and classification of the offenses, the undersigned has determined that one or both of the aforementioned Indictments charge Matthew Durham with “a crime involving moral turpitude” for purposes of article VI, section 8 of the South Carolina Constitution, *see Baddourah*, 433 S.C. at 108, 113–14, 856 S.E.2d at 571, 574 (“Under the circumstances presented here . . . we conclude the charge of second-degree

domestic violence qualifies as a crime involving moral turpitude.” (footnote omitted)); *see also State v. Jenkins*, 278 S.C. 219, 222, 294 S.E.2d 44, 45–46 (1982) (noting that S.C. Code Ann. § 63-5-70’s predecessor statute, which was previously categorized as a misdemeanor, was “enacted to provide protection for those persons whose tender years or helplessness renders them incapable of self-protection” and that “the legislature intended that one who simply, without knowledge or intent that his act is criminal, fails to provide proper care and attention for a child or helpless person of whom he has legal custody, so that the life, health, and comfort of that child or helpless person is endangered or is likely to be endangered, violates [the statute]”); *Op. Att’y Gen.*, 1991 WL 474760, at *2 (S.C.A.G. Apr. 30, 1991) (“Based upon a review of the facts set forth in the indictment, it is the opinion of this office that the offense [of Mistreatment of a Child] charged in the indictment constitutes one of moral turpitude.”); and

WHEREAS, for the foregoing reasons, and in accordance with article VI, section 8 of the South Carolina Constitution, the undersigned is authorized to suspend Matthew Durham from office as a member of Oconee County Council until such time as he shall be acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby suspend Matthew Durham from office as a member of Oconee County Council until such time as he shall be formally acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first. This action in no manner addresses the guilt or innocence of Matthew Durham and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 16th DAY OF
MAY, 2022.**

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State