

2012 Pending Legislation Affecting Children Index
Prepared by the Children's Law Center September 13, 2011

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Senate Bills

S. 18—Teacher Protection Act

Sponsor: McConnell

Status: Referred to Education Committee

Adds §59-25-900 to create a civil right of action for a teacher when a student commits a criminal offense against a teacher if the offense occurs on school grounds or at a school-related event, or if the offense is directly related to the teacher's professional responsibilities. The bill also provides that no teacher has civil liability to a student for an act or omission if: the teacher was acting within the scope of employment, the teacher violated no laws or regulations, there was no willful or intentional conduct or gross negligence, the teacher was not operating a motor vehicle or watercraft, and the actions do not constitute a violation of the student's civil rights. The bill also states that it does not affect the provisions of the South Carolina Tort Claims Act.

S. 26 – Birth Certificates

Sponsor: Leatherman

Status: Referred to Medical Affairs Committee

Amends §44-63-140 relating to birth certificates for adopted children or adults including foreign adoptions, to delete the requirement that a certificate of foreign birth include a statement that the certificate is not evidence of United States citizenship.

S. 41 – Missing Persons

Sponsor: McConnell

Status: Referred to Senate Judiciary

Amends §23-3-210 to define a missing child as an individual under age eighteen and a missing person as an individual eighteen years of age or older.

S. 83 – Military Exception for Underage Drinking

Sponsor: Ford

Status: Referred to Senate Judiciary

Amends §61-4-50 to allow persons under twenty-one years old who serve in the United States military to legally drink beer or wine.

S. 88 – School Choice Pilot Program

Sponsor: Ford

Status: Referred to Education Committee

Creates a pilot program for children with various disabilities and an Individual Education Plan to receive scholarships to attend nonpublic schools in kindergarten through eighth grade. Requires the State Board of Education to adopt rules and promulgate regulations.

S. 98 – Abortion

Sponsor: Grooms

Status: Referred to Medical Affairs Committee

Amends §44-41-10 to delete the definitions of trimesters and viability. Amends §44-41-20 to permit abortions prior to the end of the twenty-second week after conception when performed by the attending physician after informed consent. After the twenty-second week abortions are prohibited unless an immediate abortion would avert death or irreversible impairment of the mother. Women must be informed about alleviating fetal pain if an abortion is performed during the time period when a fetus may feel pain, calculation of gestational age, and providers that perform ultrasounds free of charge. At the woman’s request a physician must administer anesthetic to eliminate pain to the fetus.

S. 126 – Parents Rights to Counseling and Therapy Records

Sponsors: Campsen

Status: Referred to Senate Judiciary

Amends §63-5-30 to provide that both the mother and father of a minor child, regardless of which parent has custody, have equal rights to obtain counseling and therapy records for their minor children.

S. 134 – South Carolina Restructuring Act

Sponsor: Campsen

Status: Referred to Senate Judiciary

Similar to: S. 238, H. 3066

Establishes the Department of Administration with a director appointed by the Governor with advice and consent of the Senate. The Department would contain certain divisions of the Budget and Control Board including, among others, the Developmental Disabilities Council and the Continuum of Care. Children’s Services programs within the Office of Executive Policy and Programs would not be transferred to the Department of Administration. Creates State Inspector General and the State Chief Information Officer appointed by the Governor with advice and consent of the Senate. Provides for investigation of complaints relating to improper or unlawful activity within executive agencies.

S. 164 – Statutory Definition of Person

Sponsor: Shoopman

Status: Referred to Senate Judiciary

Similar to: H. 3403

Amends §2-7-30 to define the terms “person,” “human being,” “child,” and “individual” to include every infant member of the species homo sapiens who is born alive. The bill also defines “born alive.” The bill also contains a statement that nothing in the subsection can be used to affirm, deny, expand or contract any legal status or legal right prior to being born alive as defined in the bill.

S. 238 – South Carolina Restructuring Act

Sponsor: Martin
Status: Referred to Senate Judiciary
Similar to: S. 134

Establishes the Department of Administration with a director appointed by the Governor with advice and consent of the Senate. The Department would contain certain offices and divisions of the Budget and Control Board and including, among others, the Developmental Disabilities Council and the Continuum of Care. Children’s services programs within the Office of Executive Policy and Programs would not be transferred to the Department of Administration. Creates the office of State Inspector General and the State Chief Information Officer appointed by the Governor with advice and consent of the Senate. The bill also provides for investigation of complaints relating to improper or unlawful activity within executive agencies.

S. 281 –Child Support Obligations for Incarcerated Persons

Sponsor: Jackson and Rose
Status: Referred to Senate Judiciary

Amends §63-5-20 to permit a person who is employed at the time of sentencing and who maintains the employment while incarcerated to serve a sentence of ninety or fewer days so not to conflict with the work schedule. Wages earned during this sentence must be garnished to satisfy child support payments.

S. 292 – Unlawful Smoking in a Vehicle with a Child Present

Sponsor: Fair, Hutto and Jackson
Status: Referred to Transportation Committee
Same as: H. 3202 Similar to: H. 3427

Adds §56-5-6480 to make it unlawful for a driver or occupant of a closed motor vehicle to smoke while a child in a rear-facing child safety seat, forward-child safety seat, or a belt-positioning booster seat is in the car.

S. 293 - Family Counseling Prior to Filing a Petition for Incurability

Sponsors: Fair, Hutto and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3206

Amends §63-19-1020 to require that before a parent may file a petition for “incurability” in the family court, the parent must first provide documentation that the family has participated in counseling. Counseling may be sought from therapists, clergy members, or parenting improvement classes. If no counseling has occurred, then DJJ would refer the parent or guardian to services or provide assistance to the family.

S. 294 - Codify Joint Coordinating Council on Children and Adolescents

Sponsor: Fair, Hutto, and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3205

Codifies the current Joint Council on Children and Adolescents which serves to facilitate collaboration, promote coordination of services, and exchange best practices among the

child-serving state agencies. The Council would be composed of the Agency Directors of DMH, DJJ, DSS, DAODAS, DDSN, DOE, DHEC, and Continuum of Care. The bill also provides for the confidentiality of client records when shared among agencies, the development of Council policies, the establishment of partnerships, and an annual report that may be submitted to the Joint Citizens and Legislative Committee on Children.

S. 295 – Summer Camp Regulation Study Committee

Sponsors: Hutto, Fair, and Jackson
Status: Referred to Education Committee
Same as: H. 3204

Creates a study committee to recommend regulations to protect the safety and health of children at summer camps. The committee would develop statewide minimum requirements for summer camps and issue a report by January 31, 2012. Members to be appointed to the study committee would include representatives from various organizations operating summer camps and a representative of the Joint Citizens and Legislative Committee on Children, to be chosen by the Chair.

S. 296 – Sexting

Sponsor: Fair, Hutto, and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3130

Adds §63-19-2470 to create the non-criminal, civil offense of sexting for persons at least twelve but under eighteen years old who use a telecommunications device to transmit sexually explicit material to another person under the age of eighteen. Persons convicted may be subject to fines of up to \$100 and complete an education program administered by solicitor’s offices. Failure to pay fine or complete educational course may result in restriction or delay of driving privileges.

S. 297 - Disturbing Schools

Sponsor: Fair, Hutto, and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3203

Amends §16-17-420 to provide that persons who are not students who willfully commit certain acts that disturb the normal operations of a school or college are guilty of a misdemeanor. The crime carries a maximum penalty of two thousand dollars and imprisonment for one year. Prohibited acts include entering without permission, loitering after notice is given to vacate, fighting with another person, being loud or boisterous after instruction to stop, threatening physical harm to a student employee or threatening the use of deadly force. The bill provides for an exception for athletic sponsored events and vests family court jurisdiction over children who violate this statute.

S. 298 – Family Childcare Homes – Kendra’s Law

Sponsor: Fair and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3201

Adds §63-13-870 so that corporal punishment may not be used in family childcare homes except when authorized in writing by a child’s parent. If corporal punishment is used, it must be for the sole purpose of correcting the child; be reasonable in manner and moderate in degree; not bring about permanent or lasting damage to the child; and not be reckless or grossly negligent. Amends §63-13-825(A) which requires that training approved by the Department of Social Services be completed within thirty days from initially registering as a family childcare home.

S. 299 – Admissibility of Children’s Statements to Forensic Interviewers

Sponsors: Fair, Hutto, and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3155

Amends §19-1-180(G) to include forensic interviewers among the professionals to whom out-of-court statements made by children under twelve are admissible in family court abuse and neglect proceedings.

S. 300 - Community Evaluations for Juveniles

Sponsors: Fair, Hutto, and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3200

Amends §63-10-1440 to allow a juvenile who is temporarily committed to DJJ for an evaluation to undergo a community-based evaluation. Only a juvenile adjudicated for a status offense, a misdemeanor offense, or a probation violation or contempt would be eligible to undergo a community evaluation. The family court could override this provision if it finds a juvenile presents an unreasonable public safety or flight risk.

S. 301 – Determinate Six Month Sentence for Juveniles

Sponsor: Fair, Hutto and Jackson
Status: Referred to Senate Judiciary
Same as: S. 3198

Amends §63-19-1440 to provide for an additional sentencing option of a six month determinate sentence for juveniles. Current law gives family court judges two sentencing options: commit a child to the DJJ for an indeterminate time not to extend past the child’s 21st birthday or commit the child for ninety days. This bill would add the third option of a six month sentence if the child has been adjudicated for a felony. The only crimes available for this six month determinate sentence are those, if committed by an adult, would have a maximum term of imprisonment of fifteen years or more.

S. 302 – Ten Day Credit for DJJ Probationers or Parolees

Sponsor: Fair, Hutto and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3197

Amends §63-19-350, which permits DJJ to grant up to a 10 day credit to juveniles on probation or parole for each month they are compliant with the terms of their probation or parole. The Omnibus Crime Reduction and Sentencing Reform Act of 2010 gave adult probationers and parolees a similar compliance credit. Juveniles would only be eligible for this credit after all terms of their probation or parole, including restitution are met.

S. 303 - Eliminate Shackling of Juveniles in Courtroom Unless Necessary

Sponsor: Fair, Hutto and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3196

Adds §63-19-835 so that when a juvenile appears before the court wearing instruments of restraint, such as handcuffs, chains, irons, or straightjackets, the court may not continue unless it first finds that restraints are necessary and there are no less restrictive alternatives. Factors to consider in using restraints include whether: the child poses a threat of serious harm to self or others; the child has a recent record of disruptive courtroom; or there is reason to believe the child is a flight risk. The court must provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court must make findings of fact in support of the order.

S. 323 – Release of Children in DJJ Custody to Prevent Overcrowding

Sponsor: Fair, Hutto, and Jackson
Status: Referred to Senate Judiciary
Same as: H. 3195

Amends §63-19-1440, authorizing DJJ to release children committed to its custody or supervision from its facilities or residential program so that the number of children in DJJ's custody or supervision does not exceed the number of housing units/beds available to properly house these children. Only those children committed to its custody or supervision for status, misdemeanor, or probation violation offense would be eligible for release. No child adjudicated for a violent crime, felony, or sexual offense would be released under this amendment.

S. 373 – Child Custody and Visitation

Sponsor: Sheheen
Status: Referred to Senate Judiciary

Adds § 63-15-70 including findings regarding the equal right for both mothers and fathers to have joint custody, importance of encouraging co-parenting of minor children, and the necessity of a definition of joint custody. The bill defines joint custody as an arrangement where both the mother and father equally share legal and physical custody of a minor child so that each parent has equal care giving time in a way that meets the child's best interest. If one parent is designated the primary care giver, each parent has equal weight and voice concerning the minor child's educational, extracurricular, athletic,

S. 458 – Alternative School Program

Sponsor: Scott

Status: Referred to Education Committee

Amends § 59-63-1355 to require an entity providing alternative education program submit requests to the Department of Education. Defines when students in alternative schools are included in the report card of the resident school district, provides for the enrollment of students in these programs, provides when students in alternative programs are included in the district average daily membership. The bill also provides that entities other than districts or consortiums may submit plans for alternative education programs.

S. 498 – School Nutrition

Sponsor: Jackson, Fair, Hutto, Knotts, Lourie

Status: Referred to Education Committee

Similar to: S. 227, S. 452, H. 3214 Same as: H. 3529

Amends §50-10-340 to provide for fat, calorie and sugar standards for snack foods and beverages sold during the regular school day. Adds § 59-10-345 which sets nutritional standards for a la carte sales in school cafeterias. The bill creates an exception for fundraising purposes and requires that revisions to this chapter must conform with guidelines established by the Alliance for a Healthier Generation’s Competitive Food Guidelines.

S. 528 – Dating Violence Policy

Sponsor: Leventis

Status: Referred to Education Committee

Amends §59-1-490 to require the State Department of Education to develop a model dating violence policy by December 1, 2011 so that school districts will develop their own policies to report and respond to dating violence. The bill defines terms used in the bill. The model policy must include a statement that dating violence will not be tolerated, dating violence reporting procedures, guidelines for responding to incidents, and disciplinary procedures. By the start of the 2012-2013 school year, each school district must establish a policy for students grade six through twelve. School districts must publish the policy in handbooks or district website, inform parents and guardians of the policy and provide parents a copy of the policy upon request.

S. 539 – Criminal Domestic Violence

Sponsor: Leventis

Status: Referred to Senate Judiciary

Amends §16-25-10 to define household member for purposes of criminal domestic violence to include a person who presently or in the past has been in a dating relationship. The existence of a dating relationship is determined by a list of factors. Parents may file a protective order on behalf of a minor in a dating relationship. The bill also permits courts to order respondents to attend a batterers treatment program or order any other relief necessary to protect a household member.

S. 562 – School Attendance and Driver’s Licenses

Sponsor: L. Martin

Status: Referred to Committee on Transportation

Amends §56-1-176 to require school attendance for a reinstatement of a beginner’s permit and a regular driver’s license for a person less than seventeen. By applying for a driver’s license, a person under the age of seventeen consents to the release of his or her high school attendance records. This bill changes current law to allow an applicant with a certificate of attendance or a person who is enrolled in and making progress towards completion of a program leading to a General Education Development Diploma to also receive a license. The bill also requires school officials to notify the student and parent about the attendance requirement for a license when a student fifteen or sixteen years has three consecutive or five total unlawful absences from school. When a fifteen or sixteen year old is habitually truant from school without a parent receiving a waiver, the school official must notify the Department of Motor Vehicles which may then suspend the minor’s license. The process and requirements for obtaining a waiver are outlined in the bill. In order to petition to have a license reinstated a student must enroll and attend school. The family court may also issue an order to suspend a student’s license. Schools are also required to notify students of the requirements of this law.

S. 566 – Bullying

Sponsor: Leventis

Status: Referred to Education Committee

Amends §59-63-120 of the Safe School Climate Act to define harassment to include an act which has the effect of harming a student. Also amends the definition of harassment to include an act motivated by an actual or perceived differentiating characteristic. Requires that all acts of harassment be reported verbally to the school principal the same day an employee received the information of an alleged incident. School principals must inform parents and guardians of counseling and other intervention services. All acts of harassment must be reported in writing within two days of the incident. The bill also outlines requirements for investigation and reports of violations.

S. 573 – Juvenile Parole Board

Sponsor: Fair

Status: Referred to Senate Judiciary

Amends §63-19-610 to clarify that the Juvenile Parole Board is not under the Department of Juvenile Justice. The bill decreases the membership from ten to five members representative of the racial, gender and geographical diversity of the State.

S. 582 – Limits on Renewal of Beginner’s Permits

Sponsor: Massey

Status: Referred to Transportation Committee

Amends §56-1-50 to delete the Department of Motor Vehicles’ authority to renew or issue a beginner’s driver permit for additional twelve month periods when the examining officer has reason to believe the applicant has not made an effort to pass the road test or does not have the aptitude to pass the road test.

S. 668 – Concussions for Student Athletes

Sponsor: Fair

Status: Referred to Education Committee

Amends §59-63-97 to require each local school district of this state to develop policies and procedures regarding the identification of suspected concussions in student athletes. The policies must require that a student athlete suspected of having a concussion or brain injury be removed and evaluated. A student who is suspected of having a concussion or brain injury may not return to play until he has received written clearance by a licensed health care professional trained in concussion evaluation and management. Athletes must receive copies of these guidelines annually. The bill also provides for volunteer health care providers to evaluate suspected concussions and immunity for civil liability for acts or omissions in providing that care.

S. 822 – Criminal Child Death Offender Registry

Sponsor: Fair, Hutto, Jackson

Status: Referred to Judiciary

Adds Subarticle 15 to Article 3, Chapter 7, Title 63 requiring DSS to maintain a criminal child death offender registry available to the public. The registry would contain persons convicted of, who plead guilty to, or who plead nolo contendere to murder, manslaughter, homicide by child abuse, and aiding and abetting homicide by child abuse. Information included on the registry is a convicted offender’s name, date of birth, current photograph, crime committed, age of child victim, and date of conviction, and the city where the person resided at the time of conviction. Information that is privileged, confidential, or not subject to disclosure under state or federal law; information identifying the victim or victim’s siblings or family; or information that would jeopardize a criminal investigation must not be released. An offender will be removed from the registry if a conviction is overturned or pardoned. The bill also provides for immunity for public officials acting under this subarticle unless the conduct is grossly negligent. The bill also provides for a mechanism for updating the registry if an offender changes his or her name.

S. 859 – Residential Treatment Facilities for Children and Adolescents

Sponsor: Fair

Status: Referred to Medical Affairs

Adds §§44-7-272, 44-7-274, 44-7-276, and 44-7-278 to prohibit DHEC from licensing a residential treatment facility (RTF) for children and adolescents unless the RTF is at least 1,000 feet from a school, childcare facility, park, public swimming pool, or mass transportation stop. An RTF that admits a child who has charges pending trial or adjudication for a violent offense, as defined by Section 16-1-60, or who has been adjudicated or convicted of a violent offense, then the RTF shall notify local law enforcement when that child is admitted. An RTF that violates this section is subject to immediate removal of the child, an order to cease operations, licensure suspension or revocation, and/or a civil penalty imposed by DHEC. A child who is admitted to an RTF to whom the sex offender registry applies, must be registered.

DHEC must also develop criteria for levels of RTFs or for programs within a facility. The criteria must be based on the type of client, treatment specializations offered, severity disorders, whether clients who have a criminal history may be served,

and if so what types of offenses are accepted. DHEC may promulgate other factors in regulations. The criteria for levels of licensure for programs are based on the need for supervision, client violence, and the danger clients may pose. Based on the levels of licensure for a facility or program, DHEC shall develop supervision, safety, security and recordkeeping requirements for each level. RTFs must immediately notify law enforcement when a client leaves the facility without permission and the child's whereabouts are unknown. RTFs must maintain a record of such instances and DHEC may inspect these records.

S. 929 – “Benji’s Law” Miniature Train Permits

Sponsor: Peeler

Status: Referred to Labor, Commerce and Industry

Adds §41-18-170 specifying permit requirements for public miniature trains operated as an amusement device in an amusement park. Before the Department of Labor, Licensing and Regulation may issue a permit or a renewal a miniature train must have a properly operating speedometer, and a device to regulate the speed of the train which must be set at or below the maximum speed recommended by the manufacturer. All drivers operating the ride must be trained in accordance with the manufacturer's recommendations prior to operating the train and the owner must maintain a training record for each driver. The ride must be inspected mechanically annually to ensure that it is operating properly with respect to speed or other regulations promulgated by LLR.

House Bills

H. 3016 – Department of Disabilities and Special Needs (DDSN)

Sponsor: Harrison

Status: Referred to House Judiciary

Deletes the requirements of consultation with advisory committee, director's authority to appoint and remove employees, and responsibility for services to autistic persons by DMH. Authorizes DDSN to establish charges for services in regulations and provides that the Director's responsibility in carrying out regulations. Requires community-based housing and day programs operated by DDSN to be licensed. Deletes requirement that direct caregivers verify residency, authority for private businesses to conduct criminal background checks, and certain fingerprint forms and procedures. Repeals §44-20-225 relating to consumer advisory boards and §44-20-710 relating to licensing day programs. Adds §2-2-5 providing that standing committees of the General Assembly have a duty to review operations of state agencies. Provides process for committee oversight, investigation, obtaining evidence and testifying under oath. Also provides for program evaluation reports and the content of the program evaluation.

H. 3026 – Abortion

Sponsor: Nanney

Status: Referred to House Judiciary

Amends §44-41-330 to provide that an abortion may not take place until twenty-four hours, rather than the current sixty minutes, following the completion of the ultrasound. Also provides that the physician or allied health professional inform the mother of the probable gestational age of the embryo or fetus.

H. 3066 – Restructuring

Sponsor: G.R. Smith

Status: Referred to House Judiciary

Establishes the Department of Administration with a director appointed by the Governor with advice and consent of the Senate. The Department would contain certain offices and divisions of the Budget and Control Board including, among others, the Developmental Disabilities Council and the Continuum of Care. Children's Services programs within the Office of Executive Policy and Programs would not be transferred to the Department of Administration. Adds §2-2-5 through §2-2-110 to provide that standing committees of the General Assembly have a duty to review operations of state agencies within the committee's jurisdiction. Provides process for committee oversight, investigation, obtaining evidence and testifying under oath with counsel and with benefit of court privileges. Also provides for requests for program evaluation reports and the content of the program evaluation.

H. 3130 – Sexting

Sponsor: Brady, Butler Garrick, Spires

Status: Referred to House Judiciary

Same as: S. 296

Adds §63-19-2470 to create the non-criminal, civil offense of sexting for persons at least twelve but under eighteen years old who use a telecommunications device to transmit sexually explicit material to another person under the age of eighteen. Persons convicted may be subject to fines of up to \$100 and complete an education program administered by solicitor's offices. Failure to pay fine or complete educational course may result in restriction or delay of driving privileges.

H. 3131 – Criminal Domestic Violence

Sponsor: Brady

Status: Referred to House Judiciary

Amends §16-25-10 to define household member for purposes of criminal domestic violence to include a person who presently or in the past has been in a dating relationship. The existence of a dating relationship is determined by a list of factors. Parents may file a protective order on behalf of a minor in a dating relationship. The bill also permits courts to order respondents to attend a batterers treatment program or order any other relief necessary to protect a household member.

H. 3142 – Bullying

Sponsor: Govan

Status: Referred to Education and Public Works

Amends §59-63-160 to provide that a person who harasses, intimidates or bullies another student is guilty of a misdemeanor with a fine up to \$500 or imprisoned up to one year.

H. 3145 – Safe Haven for Abandoned Children

Sponsor: Limehouse

Status: Referred to House Judiciary

Amends §63-7-40 to raise the age at which a parent may deposit a child the parent is unable to care for up to the age of three. Also expands definition of term "safe haven" to include a local or state office of the Department of Social Services.

H. 3150 – Behavioral Health Services Act of 2011

Sponsor: G. R. Smith

Status: Referred to House Judiciary

Amends Title 44, Chapter 10 to add create the Department of Behavioral Health Services, comprised of the Division of Mental Health and the Division of Alcohol and Other Drug Abuse Service. This department would develop a state plan for the delivery of coordinated services and oversee behavior health services. The bill creates an advisory committee and gives the department authority to promulgate regulations.

H. 3154 – Criminal Solicitation of a Minor

Sponsor: T.R. Young

Status: Referred to House Judiciary

Amends §16-15-342 makes a first offense criminal solicitation of a minor a felony with up to a \$25,000 fine and up to 25 years in prison. A second or subsequent offense is a felony with a fine up to \$25,000 and imprisonment for a mandatory minimum of five years or up to 25 years of which no part may be suspended. Also adds §16-3-760 regarding the offense of sexual battery with a student. If committed with a child sixteen or seventeen years old without aggravated coercion or force, the crime is a felony with imprisonment for up to five years. If committed with a person eighteen years or older without aggravated coercion or force, the crime is a misdemeanor with a fine of up to \$500 and imprisonment for up to thirty days.

H. 3155 – Admissibility of Children’s Statements to Forensic Interviewers

Sponsor: T.R. Young

Status: Referred to House Judiciary

Same as: S. 299

Amends §19-1-180(G) to include forensic interviewers among the professionals to whom out-of-court statements made by children under twelve are admissible in family court abuse and neglect proceedings.

H. 3164 – Suspension of Driving Privileges for Failure to Attend School

Sponsor: T. R. Young

Status: Referred to Education and Public Works

Amends §56-1-76 to require that school attendance is a condition for the issuance or reinstatement of a beginner's permit, and a regular driver's license for a person who is less than eighteen years of age. Prevents the Department of Motor Vehicles from issuing or reinstating a beginner’s permit, or regular driver’s license to a person under eighteen years old unless the person has a diploma, GED, has conformed to attendance rules, and has not been expelled from school. If a student has accumulated more than seven unexcused absences then the minor’s driving privileges are suspended. The bill provides for a process for obtaining a waiver and a route-restricted license pending the decision on a waiver.

H. 3195 – Release of Children in DJJ Custody to Prevent Overcrowding

Sponsor: Brady, Butler Garrick, Spires

Status: Referred to House Judiciary

Same as: S. 323

Amends §63-19-1440, authorizing DJJ to release children committed to its custody or supervision from its facilities or residential program so that the number of children in DJJ’s custody or supervision does not exceed the number of housing units/beds available to properly house these children. Only those children committed to its custody or supervision for status, misdemeanor, or probation violation offense would be eligible for release. No child adjudicated for a violent crime, felony, or sexual offense would be released under this amendment.

H. 3196 – Shackling of Juveniles in Courtroom

Sponsor: Brady, Butler Garrick, Spires

Status: Referred to House Judiciary

Same as: H. 303

Adds §63-19-835 so that when a juvenile appears before the court wearing instruments of restraint, such as handcuffs, chains, irons, or straightjackets, the court may not continue unless it first finds that restraints are necessary and there are no less restrictive alternatives. Factors to consider in using restraints include whether: the child poses a threat of serious harm to self or others; the child has a recent record of disruptive courtroom; or there is reason to believe the child is a flight risk. The court must provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court must make findings of fact in support of the order.

H. 3197 – Ten Day Credit for DJJ Probationers or Parolees

Sponsor: Brady, Butler Garrick, Spires

Status: Referred to House Judiciary

Same as: S. 302

Amends §63-19-350, which permits DJJ to grant up to a 10 day credit to juveniles on probation or parole for each month they are compliant with the terms of their probation or parole. The Omnibus Crime Reduction and Sentencing Reform Act of 2010 gave adult probationers and parolees a similar compliance credit. Juveniles would only be eligible for this credit after all terms of their probation or parole, including restitution have been met.

H. 3198 – Determinate Six Month Sentence for Juveniles

Sponsor: Brady, Butler Garrick, Spires

Status: Referred to House Judiciary

Same as: S. 301

Amends §63-19-1440 to provide for an additional sentencing option of a six month determinate sentence for juveniles. Current law gives family court judges two sentencing options: commit a child to the Department of Juvenile Justice (DJJ) for an indeterminate time not to extend past the child's 21st birthday or commit the child for ninety days. This bill would add a third option of a six month sentence if the child has been adjudicated for a felony. The only crimes available for this six month determinate sentence are those, if committed by an adult, would have a maximum term of imprisonment of fifteen years or more.

H. 3204 – Summer Camp Regulation Study Committee

Sponsors: Brady, Butler Garrick, Spires
Status: Referred to Education and Public Works
Same as: S. 295

Creates a study committee to recommend regulations to protect the safety and health of children while in attendance at summer camps. The committee would develop statewide minimum requirements for summer camps and issue a report by January 31, 2012. Members to be appointed to the study committee would include representatives from various organizations operating summer camps and a representative of the Joint Citizens and Legislative Committee on Children, to be chosen by the Chair.

H. 3205 - Codify Joint Coordinating Council on Children and Adolescents

Sponsor: Brady, Butler Garrick, Spires
Status: Referred to House Judiciary
Same as: S. 294

Codifies the current Joint Council on Children and Adolescents which serves to facilitate collaboration, promote coordination of services, and to exchange best practices among the child-serving state agencies. The Council would be composed of the Agency Directors of DMH, DJJ, DSS, DAODAS, DDSN, DOE, DHEC, and Continuum of Care. The bill also provides for the confidentiality of client records when shared among agencies, the development of Council policies, the establishment of partnerships, and an annual report that may be submitted to the Joint Citizens and Legislative Committee on Children.

H. 3206 - Family Counseling Prior to Filing a Petition for Incurability

Sponsors: Brady, Butler Garrick, Spires
Status: Referred to House Judiciary
Same as: S. 293

Amends §63-19-1020 to require that before a parent may file a petition for “incurability” in the family court, the parent must first provide documentation that the family has participated in counseling. Counseling may be sought from therapists, clergy members, or parenting improvement classes. If no counseling has occurred, then DJJ would refer the parent or guardian to services or provide assistance to the family.

H. 3214 – School Nutrition

Sponsor: Sellers, Brady, Butler Garrick
Status: Referred to Education and Public Works
Similar to: S. 227, S. 452, H. 3529

Amends §50-10-340 to provide for fat, calorie and sugar standards for snack foods and beverages sold during the regular school day. The bill permits snacks and beverages to be sold in vending machines only in middle and high schools provided that the snacks and beverages meet nutritional standards. Adds § 59-10-345 which sets nutritional standards for a la carte sales in school cafeterias. The bill creates an exception for fundraising purposes that occur before or after the regular school day.

H. 3225 – Best Interests of Child in Custody Cases

Sponsor: Allison

Status: Referred to House Judiciary

Adds §63-15-35 to provide that in determining the best interests of a child, the family court shall consider the grandparent and immediate family members of the child for custody. Except over a parent of the child, the court is to give priority for custody to a grandparent or immediate family member. In considering placement of a child with a grandparent or immediate family member the court must consider the ability of the individual to care for the child, including character, fitness and attitude, as well as the totality of the circumstances.

H. 3229 – Behavioral Health Services Act of 2011

Sponsor: Harrison

Status: Referred to House Judiciary

Similar to: H. 3150

Adds Title 44, Chapter 10 to add create the Department of Behavioral Health Services, comprised of the Division of Mental Health and the Division of Alcohol and Other Drug Abuse Service. This department would develop a state plan for the delivery of coordinated services and oversee behavior health services. The bill creates an advisory committee and gives the department authority to promulgate regulations.

H. 3236 – Christian Schools Within the Compulsory Education Requirement

Sponsor: Daning

Status: Referred to Education and Public Works

Section 59-65-10 requires children age five through seventeen to attend school. This bill amends §59-65-10 to permit a member school of the South Carolina Association of Christian Schools to designate schools that children may attend within this compulsory education requirement. The bill exempts children who have already graduated from a member school of the South Carolina Association of Christian Schools from the compulsory education requirement.

H. 3240 – Prohibition of Sale of Yo-yo Waterballs--Sydney's Law

Sponsor: Herbkersman

Status: Referred to House Judiciary

Adds §39-5-31 to prohibit the sale of yo-yo waterballs. This bill makes findings of facts regarding the safety hazards of the toy which include strangulation and allergic reactions. Violations for selling or offering to sell the toy include a fine of not more than \$10,000 for a first offense and not more than \$20,000 for a second or subsequent offense.

H. 3242 – High School Equivalency Diploma

Sponsor: G.R. Smith

Status: Referred to Education and Public Works

Adds §59-39-105 to require the State Department of Education to create a program to award a high school equivalency diploma for students who earn twenty-four credits at an institution of higher learning in the state. Also requires the Department of Education to

determine college courses the student must take to earn the credits, develop a framework for participating institutions, and selecting program participants.

H. 3244 – Increase in Age for Compulsory School Attendance

Sponsor: G.R. Smith

Status: Referred to Education and Public Works

Amends §59-65-10 to increase the age through which students must attend school from seventeen to eighteen years old.

H. 3251 – Guardian ad Litem Appointment and Investigations

Sponsor: G.R. Smith

Status: Referred to Education and Public Works

Adds §63-7-455 to provide for a child who is the alleged victim in a child abuse or neglect report to the Department of Social Services to have a guardian ad litem appointed any time after the report was received. The bill also requires the guardian ad litem to initiate an investigation within twenty-four hours after being appointed.

H. 3267 – Merger of Probation, Parole and Pardon Services with Corrections

Sponsor: Sellers

Status: Referred to House Judiciary

Amends §24-21-10 to provide that the current Department of Probation, Parole and Pardon Services will become a division of the Department of Corrections. The bill provides that the director of the Department of Corrections will oversee the division and transfers functions of Probation, Parole and Pardon to the Department of Corrections.

H. 3308 – DSS Placement Plans – Jaidon’s Law

Sponsor: Forrester

Status: Referred to House Judiciary

Amends §63-7-1680 relating to the contents, approval, and amendment of a placement plan developed by DSS for a child removed from his parents. The bill requires that the plan set a minimum number of visits that parents must attend and requires DSS to establish a procedure for stopping visitation for failure to attend scheduled visits. Amends §63-7-1690 making certain requirements for placement plans for children whose parents who use controlled substances mandatory, rather than in the court’s discretion. Amends §63-7-1710 regarding additional circumstances under which DSS shall file termination of parental rights: 1) for parents who are convicted of aiding or abetting or homicide by child abuse 2) for parents who failed a three hair-strand drug tests over a nine-month period and 3) for parents who fail twice in a twelve-month period to comply with the terms of a treatment or placement plan. Amends §63-7-1940 to require that a person be placed on the central registry for child abuse if the person gave birth to a child that tested positive for drugs. Amends § 63-7-2570 regarding grounds for termination of parental rights to include: 1) hospitalization of child for more than fourteen days due to abuse or neglect as a rebuttable presumption of severe and repetitive abuse and neglect, 2) a parent’s addiction to alcohol or illegal drugs, or prescription medication abuse as a condition unlikely to change within a reasonable time, and 3) conviction for murder, voluntary manslaughter, or homicide by child abuse of another child of the parent.

H. 3341 – Crime of Exposing a Child to Methamphetamine

Sponsor: Stringer

Status: Referred to House Judiciary

Amends § 44-53-378 to create the offense of exposing a child to methamphetamines when serious bodily injury to a minor child results. Conviction of the existing offense of exposure of a child to methamphetamine where there is also serious bodily injury to a child would result in a fine of not more than \$50,000 or imprisonment for a mandatory minimum of five years up to twenty years. The bill prevents any part of the mandatory minimum from being suspended or served on probation.

H. 3400 – Child Support Termination on High School Graduation or Age 18

Sponsor: Weeks

Status: Referred to House Judiciary

Amends §63-3-530(A)(17) to require that child support orders will automatically terminate when a child turns 18 years old or graduates from high school, whichever occurs first. The bill also prevents any arrearage from accruing after the child's 18th birthday or graduation from high school.

H. 3403 – Statutory Definition of “Child”

Sponsor: Delleney

Status: Referred to House Judiciary

Similar to: S. 164

Amends §2-7-30 to define the terms “person,” “human being,” “child,” and “individual” to include every infant member of the species homo sapiens who is born alive. The bill also defines “born alive.” The bill also contains a statement that nothing in the subsection can be used to affirm, deny, expand or contract any legal status or legal right prior to being born alive as defined in the bill.

H. 3421 – Division of Alcohol and Other Drug Abuse Services

Sponsor: White

Status: Referred to House Judiciary

Transfers the responsibilities of DAODAS to the DMH and establishes the Division of Alcohol and Other Drug Abuse Services within the DMH.

H. 3427 –Smoking Prohibited when Preschool Aged Child Present in Car

Sponsor: Clyburn

Status: Referred to House Judiciary

Adds §56-5-3910 to make it unlawful for a driver or occupant of a private or public passenger vehicle to smoke a tobacco product while a preschool aged child is present in the vehicle. A violation is a misdemeanor with a fine of not more than \$100 or imprisonment for not more than ten days.

H. 3491 – Homicide by Child Abuse

Sponsor: Sandifer

Status: Referred to House Judiciary

Amends § 16-3-85 concerning the offense of homicide by child abuse to increase the penalty from an optional penalty of imprisonment of up to life but not less than twenty years to a mandatory penalty of life without the possibility of parole or death.

H. 3496 – Blood Borne Disease Confidentiality

Sponsor: Brady, Butler Garrick and Spires

Status: Referred to Education and Public Works

Same as: S. 445

Amends §44-29-135 to delete the requirement that the superintendant and school nurse be notified when a minor with AIDS or who is infected with HIV attends public school. Also requires school districts to adopt the Centers for Disease Control and Prevention recommendations on universal precautions for blood borne diseases. School districts must provide written notice, including education and training, for infection control, universal precautions, and disinfection and sterilization techniques.

H. 3529 – School Nutrition

Sponsor: Sellers

Status: Referred to Education and Public Works

Similar to: S. 227, S. 452, H. 3214 Same as: S. 498

Amends §50-10-340 to provide for fat, calorie and sugar standards for snack foods and beverages sold during the regular school day. Adds § 59-10-345 which sets nutritional standards for a la carte sales in school cafeterias. The bill creates an exception for fundraising purposes and requires that revisions to this chapter must conform with guidelines established by the Alliance for a Healthier Generation’s Competitive Food Guidelines.

H. 3667 – Criminal Sexual Conduct Exception Between Consenting Teens

Sponsor: Bannister

Status: Referred to House Judiciary

Amends §16-3-655 relating to sexual conduct with a minor to create the offense of criminal sexual conduct with a minor in the third degree. This offense occurs if an actor over the age of fourteen engages in specified conduct with a child under age sixteen. The bill creates an exception for a person eighteen years old or younger who engages in consensual lewd or lascivious conduct with a person at least fourteen years old. The bill also makes the penalty for violation a felony with a fine in the discretion of the court and imprisonment of not more than 15 years. The bill repeals §16-15-140, which is the crime of lewd acts upon a child under the age of 16.

H. 3757 -- Human Trafficking

Sponsor: Hardwick

Status: Referred to House Judiciary

Adds Article 19 entitled “Human Trafficking.” Section 16-2-2020 provides that a person who provides another person knowing the person will be subjected to sexual servitude of a minor, involuntary servitude, or one who benefits from such an act is guilty of a felony. The penalty for violation is forfeiture assets and imprisonment up to 15 years. A person who provides a minor for a commercial sex act or sexually explicit performance or one who benefits from such an act is guilty of a felony. The penalty for violation is forfeiture of all assets obtained and imprisonment of up to 20 years. A person who knowingly subjects another person to a commercial sex act or sexually explicit performance or labor services by threatening serious harm to any person, physically restraining another person, abusing the law, or destroying a legal immigration document, extortion or blackmail, deception or fraud, debt coercion, causing financial harm to another person, facilitating or controlling a victim’s access to an addictive controlled substance is guilty of a felony. The penalty for violation is forfeiture of assets and imprisonment up to 10 years. Businesses that engage in trafficking may also be held criminally liable. Restitution to the victim is mandatory. The bill also creates an interagency task force to develop a State Plan for the Prevention of Trafficking in Persons and to submit an annual report to the General Assembly. The bill also provides for mandatory training for law enforcement agencies and a public awareness campaign. The bill creates a civil right of action for a victim and protects the confidentiality of information disclosed by the victim of human trafficking.

H. 3987 – Clerks of Court and Non-Title IV-D Child Support Enforcement

Sponsor: Nanney

Status: Referred to House Judiciary

Amends §63-17-2310 so that in all cases not being administered pursuant to Title IV-D of the Social Security Act, the clerk of court is permitted to attempt to locate individuals for the purpose of enforcing child support obligations. Under the bill, employers and utility companies are required to provide identifying information without charge to the clerks of court in non-Title IV-D cases.

H. 4015 – Definition of Joint Custody

Sponsor: Long

Status: Referred to House Judiciary

Adds §63-15-15 to define joint custody as an arrangement where the mother and father equally share legal and physical custody of a minor child. Each parent begins with equal care-giving time in any manner to meet the child’s best interest. The bill permits a parent to be designated as a primary caregiver, but permits both to have equal weight that must be considered before making major decisions regarding the child’s educational, extracurricular, athletic, medical, spiritual, and emotional wellbeing. The bill states that there is no visitation in a joint custodial arrangement.

H. 4026 – Unlawful to Leave a Child Unattended in a Vehicle

Sponsor: Gilliard

Status: Referred to House Judiciary

Adds §56-5-3910 to provide that it is unlawful for an adult to leave a child under the age of fifteen unattended in a motor vehicle. A person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine of up to \$1,000 or imprisonment for up to thirty days.

H. 4095 – Joint Custody

Sponsor: Pitts

Status: Referred to House Judiciary

Adds §63-15-45 to create a rebuttable presumption that both parents have joint physical custody of a child when a court awards joint legal custody of a child. The bill defines joint physical custody as equal time-sharing. If a parent challenges joint custody, then that parent has the burden of overcoming the presumption of joint physical custody. The presumption may be overcome by one parent waiving joint physical custody or by proving that joint physical custody would not be in the best interest of the child. The bill requires parents to submit a parenting plan regarding education, upbringing, religious training, medical and dental care. Parents share decision-making authority and if parents are unable to agree, they shall submit to mediation with a preselected mediator. The presumption may be overcome at a hearing by clear and convincing evidence and the court shall issue findings of fact and conclusions of law in its order.

H. 4148– Residential Treatment Facilities for Children and Adolescents

Sponsor: Limehouse

Status: Referred to Medical, Military, Public and Municipal Affairs

Similar to: S. 859

Adds §§44-7-272, 44-7-274, 44-7-276, and 44-7-278 to prohibit DHEC from licensing a residential treatment facility (RTF) for children and adolescents unless the RTF is at least 1,000 feet from a school, childcare facility, park, public swimming pool, or mass transportation stop. An RTF is prohibited from admitting children from another state if the child would be required to register with the sex offender registry. An RTF that violates this section is subject to immediate removal of the child, an order to cease operations, licensure suspension or revocation, and/or a civil penalty imposed by DHEC.

DHEC must also develop criteria for levels of RTFs or for programs within a facility. The criteria must be based on the type of client, treatment specializations offered, severity disorders, whether clients who have a criminal history may be served, and if so what types of offenses are accepted. DHEC may promulgate other factors in regulations. The criteria for levels of licensure for programs are based on the need for supervision, client violence, and the danger clients may pose. Based on the levels of licensure for a facility or program, DHEC shall develop supervision, safety, security and recordkeeping requirements for each level. RTFs must immediately notify law enforcement when a client leaves the facility without permission and the child's whereabouts are unknown. RTFs must maintain a record of such instances and DHEC may inspect these records.

H. 4173 – Employee Protection for Reporting Child Abuse

Sponsor: Bingham

Status: Referred to House Judiciary

Adds §63-7-315 to prohibit employers from dismissing, demoting, suspending or otherwise disciplining or discriminating against an employee who is a mandated reporter or who is permitted to report child abuse or neglect. The bill gives a person adversely affected the right to bring a civil action for reinstatement and back pay against any employer, including the State. The bill provides for a three year statute of limitations commencing from the time the cause of action arises. Finally, the bill gives a prevailing plaintiff the right to attorney's fees.

H. 4317 – Home Visitation Accountability Act of 2012

Sponsor: Allison

Status: Referred to House Ways and Means

Adds Chapter 155 to Title 59 to establish a Home Visitation Accountability Act. The bill defines various terms, including “evidence-based” and “promising” programs. The bill creates a Home Visitation Board and provide for membership, powers and duties of the Board. Home visitation programs must comply with certain requirements. Programs that are evidence-based will be phased in so that by fiscal year 2013-14, 75% of all funds are to be used will be for evidence-based programs, and the remaining 25% for promising programs. The Board is authorized to determine requirements for certain data to be collected by contract between funding entities, service providers and home visitation programs. Home visitation programs must submit data to the Budget and Control Board for evaluation. The Budget and Control Board will then evaluate programs to determine whether the program meets the criteria for an evidence-based or promising program. In fiscal year 2013, the Budget and Control Board will collect outcome data. Starting in fiscal year 2016 the Budget and Control Board will prepare a report of its findings for home visitation programs that have been in operation for three or more years. The Home Visitation Board will notify funding agencies of the programs that satisfy criteria for evidence-based or promising programs and will provide program evaluations to home visitation programs to assist in improving practices and outcomes.

H. 4355 – Parent Entitled to Claim Dependent for Tax Purposes

Sponsor: Mitchell

Status: Referred to House Judiciary

Adds §63-3-660 to require in all divorce, separate maintenance, custody, visitation and paternity actions in which parties have a child in common that the family court designate in its order the parent entitled to claim the dependent child for income tax purposes. The court shall order the appropriate parent to execute the federal forms necessary for implementation of the order.

H. 4358 – Drug Testing for TANF Beneficiaries

Sponsor: Young

Status: Referred to House Judiciary

Adds §43-5-1187 so that an individual who tests positive for drugs is ineligible to receive TANF benefits for one year unless the person documents completion of a substance

abuse program. DSS must notify the applicant of certain rights and responsibilities with respect to the testing. If a parent is ineligible for TANF benefits due to a positive drug test, the child's eligibility is not affected and a payee must be designated to receive benefits on the child's behalf. The parent may designate an immediate family member as the payee for the child. If the family member declines the department may designate another individual. This family member must also undergo drug testing before being approved to receive benefits.

This summary was compiled through a keyword search of pending legislation under "children".

Only the primary sponsor of each bill is listed, except that co-sponsors who are members of the Joint Citizens and Legislative Committee on Children are also noted.