

2009 - 2010 Pending Legislation

- I. Health, Safety, and Medical Insurance Issues
- II. Early Childhood Development
- III. Education
- IV. Child Protection, Termination of Parental Rights, Adoption, and Family Court Issues
- V. Criminal Child Abuse and Exploitation
- VI. Child Custody Issues
- VII. Juvenile Justice Issues

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.

Status is as of November 30, 2009.

Because education matters are reviewed by the education committees, only bills that cross over into other issues are included in this summary.

2009 - 2010 Pending Legislation – Children’s Issues
Prepared by the Children’s Law Center
November 30, 2009

I. Health, Safety, and Medical Insurance Issues

S. 23 – Smoking in Vehicle

Sponsor: Sen. Jackson

Status: Third reading in Senate (5/1/09)

First reading in House, Judiciary Committee (5/1/09)

Adds §56-5-6480 making it unlawful for a driver or occupant of a closed motor vehicle to smoke while a child who is 10 years old or younger is in the car. Provides a fine.

S. 31 – Clean Indoor Air Act

Sponsor: Sen. Jackson

Status: Medical Affairs Committee (1/13/09)

Deletes provisions of §44-95-20 that allow smoking in certain private offices and teacher lounges at schools. Also adds §59-1-485 making it unlawful for a person to smoke or possess lighted smoking material in indoor or outdoor areas of public schools and preschools, and requires referral to a smoking cessation program.

S. 119 – Health Facility Licensure Act

Sponsor: Sen. Knotts

Status: Medical Affairs Committee (1/13/09)

Similar: H. 3205

Amends article 3, chapter 7, title 44 by abolishing the certificate of need program and makes DHEC the sole agency for control and administration of licensure for health facilities and other activities under the article. Includes licensure for residential treatment facilities for children and adolescents.

S. 189 - Missing Child Definition

Sponsor: Sen. McConnell

Status: Subcommittee of Judiciary Committee (1/23/09)

Amends §23-3-210 to change the definition of missing child to include a person under the age of 18 rather than under 17, and to change the definition of a missing person to include a person age 18 and older.

S. 286 – Dental Health Education

Sponsor: Sen. Cleary

Status: Third reading in Senate (4/21/09)

First reading in House,

Education and Public Works Committee (4/22/09)

Adds §44-8-10 *et.seq.* requiring DHEC to implement a dental health screening program for children in selected grades in three to five counties of need. Screenings are to be mandatory unless the parents sign an exemption form. The program must seek collaboration from school districts, other governmental entities, school nurses, and dentists to coordinate Medicaid assistance and volunteer efforts to reduce costs to the state. Guidelines are to be promulgated in regulations.

S. 416 – Health Care Accessibility for Young Americans Act

Sponsors: Sen. Lourie, Sen. Hutto

Status: Third reading in Senate (4/30/09)

First reading in House, Labor Committee (5/12/09)

Adds §38-71-295 to provide health insurance coverage under a parent’s policy for a child under age 30 for six months following honorable discharge from military service. Adds §38-71-300 to define dependents as including unmarried children under age 25 who are primarily dependent for financial support and unmarried children who are incapable of self support due do mental retardation or a physical disability. Amends §§38-71-350, 38-71-360, 38-71-780, and 38-71-1330 to make conforming changes.

S. 553 – Regulations for Summer Camp Programs

Sponsor: Sen. Hutto

Status: Third reading in Senate (5/13/09)

First reading in House, Judiciary Committee (5/14/09)

Creates the Summer Camp Study Committee to develop and recommend statewide minimum requirements for the care and protection of children attending summer camps and recommend a mechanism for the enforcement of the requirements. The Study Committee is to issue its report by January 31, 2010. Members include a representative of the Joint Citizens and Legislative Committee on Children, to be chosen by the JCLCC Chairperson.

H. 3023 – Smoking in Vehicle

Sponsor: Rep. M.A. Pitts, Rep. Brady

Status: Judiciary Committee (1/13/09)

Adds §56-5-3910 providing that it is unlawful for a driver or occupant of a motor vehicle to smoke when a minor, under the age of 18, is an occupant in the vehicle and provides a penalty.

H. 3082 – Smoking in Vehicle

Sponsor: Rep. Clyburn

Status: Judiciary Committee (1/13/09)

Adds §56-5-3910 to make it a misdemeanor for a driver or occupant of a public or private motor vehicle to smoke while a child of preschool age is in the vehicle. Provides a penalty of a fine up to \$100 or imprisonment for up to 10 days.

H. 3091 – Smoking

Sponsor: Rep. King

Status: Judiciary Committee (1/13/09)

Amends §44-95-20 to add restaurants and places licensed to sell alcoholic beverages for on-premises consumption to the list of public areas where smoking is prohibited, except in designated smoking areas. Amends §44-95-50 to provide a civil fine for violation.

H. 3113 - Smoking

Sponsor: Rep. Rutherford
Status: Judiciary Committee (1/13/09)
Similar: S.38

Amends §44-95-20 of the Clean Indoor Air Act to extend the smoking prohibition to restaurants, bars, lounge areas, and recreational facilities. Amends §44-95-20(1) to authorize school districts or principals to adopt more stringent restrictions related to smoking in private offices or lounges in schools. Adds §44-95-25 to expressly permit smoking in private homes and automobiles, home based businesses, private functions in indoor areas, hotel rooms designated as smoking rooms, specialty tobacco stores, tobacco manufacturers, cigar bars and private clubs. A proprietor may prohibit smoking in an establishment that may otherwise be permitted. Provides a minimum fine of \$50.00 for violations.

H. 3179 - S.C. Farm to School Program Act

Sponsors: Rep. Cooper
Status: Third Reading in House (2/27/09)
Senate Committee on Education (3/3/09)

Adds §59-10-400 to establish the South Carolina Farm to School Program in the Department of Agriculture. The program's goal is to foster a direct relationship between South Carolina farms and schools to provide schools with fresh, minimally processed foods for student consumption.

H. 3199 - Behavioral Health Services Act

Sponsor: Rep. Harrison
Status: Third reading in House (5/20/09)
First reading in Senate, Medical Affairs Committee (5/20/09)

Amends various sections to transfer the powers and duties of the Department of Mental Health, the Department of Alcohol and Other Drug Abuse Services, and the Continuum of Care for Emotionally Disturbed Children to the Department of Behavioral Health Services effective January 1, 2011. The new Department of Behavioral Health Services will include three divisions. Establishes the Department of Behavioral Health Services Advisory Committee which must include two representatives of each of the three divisions and two professionals with expertise in children's mental health services, among others.

H. 3204 - Healthy Communities Capacity Act

Sponsor: Rep. Whipper
Status: Ways and Means Committee (1/13/09)

Amends Title 44 to enact the "Healthy Communities Capacity Act". Adds §44-6-1400 to establish the Small Business Health Insurance Premium Assistance Program within DHHS to provide assistance to small businesses for employees who are at or under 200% of the federal poverty level. Establishes eligibility criteria and contribution requirements; provides that no more funds can be expended on the program than are available from the Medicaid match fund. Requires DHHS to expand Medicaid coverage to children 18 years old and younger whose family income does not exceed 200% of the federal poverty level. Adds §12-21-640 to provide for an additional 4.65 cent tax on each cigarette to fund the program and for distribution of the remaining portion. Adds §44-6-1210 to establish the Second Chance Quit Assistance Program within DHHS.

H. 3205 – Health Facility Licensure Act

Sponsor: Rep. Toole

Status: Committee on Medical, Military, Public and Municipal Affairs
(1/13/09)

Similar: S. 119

Amends article 3, chapter 7, title 44 by abolishing the certificate of need program and makes DHEC the sole agency for control and administration of licensure for health facilities and other activities under the article. Includes licensure for residential treatment facilities for children and adolescents.

H. 3211 – Cigarette tax

Sponsor: Rep. Gunn

Status: Ways and Means (1/13/09)

Adds §12-21-625 to impose a surtax of 4.65 cents per cigarette and provide that one-half of this revenue be credited to the Medicaid Trust Fund and one-half to the Health Care Access Trust Fund. Adds §11-11-230(A) to create the Medicaid Trust Fund to expand coverage for the states Children’s Health Insurance Program to 250 percent of the federal poverty level. Adds §11-11-230(B) to create the Health Care Access Trust Fund. Adds §38-62-10 *et. seq.* establishing the Health Care Premium Assistance Program, which provides premium assistance averaging \$2,000 to eligible individuals toward the purchase of a qualifying health insurance plan. Also adds §38-74-75 to establish the Health Care Access Program, a self-sustaining and financially independent portion of the premium assistance pool.

H. 3310 – Dating Violence

Sponsors: Reps. Brady and Harvin

Status: Judiciary Committee (1/27/09)

Amends §16-25-10 relating to the definition of a “household member” in connection with criminal domestic violence offenses to include persons in a dating relationship and defines “dating relationship”. Amends §20-4-20 relating to definitions in the Protection From Domestic Abuse Act to revise the definition of a “household member” to include persons in a dating relationship and defines “dating relationship”. Amends §20-4-40 relating to the petition for an order of protection to provide that a parent or guardian may petition the court for an order on behalf of a minor who is in a dating relationship. Amends §20-4-60 relating to the contents of the order of protection.

H. 3445 – Smoking in Vehicle

Sponsor: Rep. Clyburn, Rep. Spires

Status: Judiciary Committee (2/5/09)

Similar: H 3082

Adds §56-5-3910 to make it a misdemeanor for a driver or occupant of a public or private motor vehicle to smoke while a child of preschool age is in the vehicle. Provides a penalty of a fine up to \$100 or imprisonment for up to 10 days.

H. 3470 – Cigarette Tax

Sponsor: Rep. Skelton

Status: Ways and Means Committee (2/10/09)

Similar: H. 3486, H. 3584

Adds §12-21-625 to raise the tax on cigarettes to 2.5 cents per cigarette.

Provides that \$5 million of this revenue be used for the Smoking Prevention and Cessation Trust Fund and \$1 million for the Department of Agriculture to market state-grown crops. Provides that one-half of the remaining revenue be used for the Medicaid Trust Fund and one-half for the Health Care Trust Fund.

Adds §11-11-230 to create the Medicaid Trust Fund to supplement Medicaid services to families with income between 50 and 100 percent of the federal poverty level. Provides that any excess funds be used for additional coverage under the State Children's Health Insurance Program and the Aged, Blind, and Disabled Program. Requires that, if state general fund revenues in any fiscal year are \$7.5 billion or more, cigarette tax revenues otherwise required to be credited to the Medicaid Trust Fund in the succeeding fiscal year must be credited to the Health Care Trust Fund. Adds §38-62-10 through 38-62-120 to establish the Palmetto Health Care Premium Assistance Program for individuals between the ages of 19 and 64 who have income less than 200 percent of the federal poverty level.

Adds §38-74-75 to create the Palmetto Health Care Safety Net Program through a self-sustaining portion of the premium assistance pool to be overseen by the Department of Insurance. This bill also prohibits the excessive purchase of cigarettes in anticipation of the increased tax and creates a Study Committee on Health Care Access and Affordability.

H. 3486 – Cigarette Tax

Sponsor: J.E. Smith

Status: Ways and Means Committee (2/10/09)

Similar: H. 3470, H. 3584

Adds §12-21-625 to raise the tax on cigarettes to the Southeastern average.

Provides that \$5 million of this revenue be used for the Smoking Prevention and Cessation Trust Fund and \$1 million for the Department of Agriculture to market state-grown crops. Provides that one-half of the remaining revenue be used for the Medicaid Trust Fund and one-half for the Health Care Trust Fund.

Adds §11-11-230 to create the Medicaid Trust Fund to supplement Medicaid services to families with income between 50 and 100 percent of the federal poverty level. Provides that any excess funds be used for additional coverage under the State Children's Health Insurance Program and the Aged, Blind, and Disabled Program. Adds §38-62-10 through 38-62-120 to establish the Palmetto Health Care Premium Assistance Program for individuals between the ages of 19 and 64 who have income less than 200 percent of the federal poverty level.

Adds §38-74-75 to create the Palmetto Health Care Safety Net Program through a self-sustaining portion of the premium assistance pool to be overseen by the Department of Insurance. This bill also prohibits the excessive purchase of cigarettes in anticipation of the increased tax and creates a Study Committee on Health Care Access and Affordability.

H. 3584 – Cigarette Tax

Sponsor: Rep. Harrell, Rep. Brady

Status: Third Reading in House (4/3/09)

Senate Finance Committee (4/14/09)

Committee Report: Favorable with amendment (5/7/09)

Similar: H. 3470, H. 3486

Adds §12-21-625 to impose a surtax on each cigarette in the amount of 2.5 cents. Provides that \$5 million of this revenue be used to fund a smoking prevention and cessation program administered by DHEC. Adds §11-11-230(B) to provide that 70 percent of the remaining revenue be used to fund the South Carolina Healthy Families Insurance Plan. Adds Chapter 62 to Title 38 to create and establish guidelines for the South Carolina Healthy Families Insurance Plan, which will provide premium assistance to qualifying individuals and small businesses. Qualifying individuals must be between the ages of 19 and 64, have income less than 200 percent of the federal poverty level, and not be eligible for any other state or federal insurance program. Adds §11-11-230(C) to provide that 20 percent of the remaining revenue from the cigarette surtax be transferred to the Palmetto Health Care Safety Net Trust Fund, a self-sustaining portion of the premium assistance pool, and adds §38-74-75 to create the Safety Net Program. Individuals who are at least 19 years old and have income less than 400 percent of the federal poverty level may be eligible to participate in the Safety Net program according to the premium schedule set forth in the bill.

(The Senate Finance Committee amendment would strike all language and replace with provisions to: (1) establish a surtax on each cigarette of 2.5 cents from July 1, 2009 through June 30, 2010, noting that this is provisional pending the federal expansion of healthcare; (2) allocate \$5 million to the Medical University of South Carolina Hollings Cancer Center and the remaining revenue to the newly created S.C. Healthcare Trust Fund; and (3) establish limits on the purchase of cigarettes by wholesalers, distributors, and retailers.)

H. 4183 – Child Passenger Restraints

Sponsor: Rep. Sellers

Status: Prefiled (11/17/09)

Committee on Education and Public Works

Amends §56-5-6410 to increase the age of children who must be secured in a child passenger restraint system, requiring children who are less than 8 years old to be restrained.

II. Early Childhood Development

S. 485 – Childcare Safety Enhancement Act

Sponsor: Sen. Lourie

Status: Subcommittee of Judiciary Committee (3/5/09)

Enacts the “Childcare Safety Enhancement Act of 2009” by amending §63-13-180 to provide that DSS shall obtain the advice of the State Advisory Committee on the Promulgation of Regulations for Childcare Facilities, but deletes the requirement for consent of the Committee. Amends §63-13-1210 relating to same advisory committee membership to increase the number of parent members on the committee and to decrease the number of owners and operators of childcare facilities on the committee by one. Amends §63-13-1220 relating to the duties of same committee to delete the provision that no regulation may be promulgated if disapproved by the committee. Adds §63-13-220 to specify the type of violations subject to fines and the maximum fine amount for each type of violation, notification of violations, correction of violations, payment of fines and appeal of fines.

H. 3309 – Study Committee on Childcare Services

Sponsor: Rep. Brady

Status: Medical, Military, Public and Municipal Affairs Committee (1/27/09)

This Joint Resolution would create the Childcare Costs Study Committee to review all policy, planning, and service delivery issues affecting both the cost and quality of childcare services available to working parents. The Committee is to be composed of three members appointed by the governor, three members of the Senate, and three members of the House of Representatives. Findings and recommendations are to be reported by January 1, 2010.

H. 3459 - Child to Staff Ratios

Sponsor: Rep. White

Status: Medical, Military, Public and Municipal Affairs Committee (2/5/09)

This Joint Resolution would direct DSS to suspend the enforcement of certain childcare center staff-to-child ratio regulations. DSS shall suspend the application and enforcement of Reg. 114-504(B) which establishes child-to-staff ratios for children on daycare premises and during activities away from the center, and Reg. 114-504 (C) relating to naptime ratios that were to be phased in over a period of four years from the 2005 amendments to the regulation changing the ratios.

III. Education

S. 29 – Truancy

Sponsor: Sen. Jackson
Status: Committee on Education (1/13/09)
Similar: H. 3645

Amends §59-65-10 to extend the compulsory school attendance law to age 18 and makes appropriate changes in truancy statutes. Amends §63-19-1420(A) to authorize the court to suspend a child's driver's license until age 18 for truancy offenses. Amends §63-19-1440(A) to provide that children may be committed to DJJ for violation of a court order to attend school prior to age 18.

S. 266 – Dating Violence

Sponsor: Sen. Leventis
Status: Education Committee: Favorable Report with Amendment (3/12/09)
Committee Amendment Adopted (3/17/09)
Similar: H. 3202, H. 3543

Adds §59-1-490 to require the Department of Education to develop a model dating violence policy and to require school districts to develop specific policies for dating violence reporting and response.

H. 3099 – Court Order for Parent-Teacher Conference

Sponsor: Rep. Kirsh
Status: Judiciary Committee (1/13/09)
Similar: H. 3110

Amends §59-28-160 and §63-3-530 to allow schools to petition the family court to require parents of a habitually disruptive child to attend a parent-teacher conference.

H. 3110 - Court Order for Parent-Teacher Conference

Sponsors: Reps. Kirsh
Status: Judiciary Committee (1/13/09)
Similar: H. 3099

Amends §59-28-160 and §63-3-530 to allow schools to petition the family court to require parent of a habitually disruptive child to attend a parent-teacher conference.

H. 3202 – Dating Violence

Sponsor: Rep. Brady, Rep. Harvin
Status: Education and Public Works Committee (1/13/09)
Similar: S. 266, H. 3543

Amends §59-1-490 to require the Department of Education to develop a model dating violence policy to assist school districts in developing policies. Requires school districts to establish policies to address incidents of dating violence, and to publish and inform parents of the policy. Requires school districts to provide dating violence training annually to staff. Adds §59-32-100 to require each school district to annually include dating violence education in its comprehensive health education curriculum.

H. 3297 – Snacks Sold in Schools

Sponsor: Rep. Sellers, Rep. Brady

Status: Third reading in House (5/1/09)

First reading in Senate, Education Committee (5/5/09)

Amends §59-10-340 to provide standards for fat, calorie, and sugar content of snack foods and beverages sold in schools during the regular school day. Stipulates that snacks and beverages sold in vending machines in middle and high schools must meet these nutritional standards and prohibits vending machine sales in elementary schools. Adds §59-10-345 to require that the only food that may be served to elementary students during breakfast and lunch is food that is sold as a full meal that meets USDA guidelines (unless the student brings lunch from home). Implements fat, sugar, and portion size standards for a la carte items offered to all students.

H. 3543 – Dating Violence

Sponsor: Rep. Brady

Status: Education and Public Works Committee Report:

Favorable with amendment (4/28/09)

Debate interrupted (5/21/09)

Similar: S. 266, H. 3202

Adds new §59-1-490 requiring the Department of Education to develop a model dating violence prevention policy. Requires school districts to establish policies to address incidents of dating violence involving students in grades six through twelve. Further requires school districts to publish and inform parents of the policy.

H. 3645 – Driver’s License and Compulsory School Attendance

Sponsors: Rep. T.R. Young, Rep. Spires

Status: Education and Public Works Committee (3/3/09)

Similar: S. 29

Amends §56-1-40 to require that a regular driver’s license can only be issued to a person at least 18 years old, and to extend the age for a restricted driver’s license through age 17.

Amends §56-1-176 to provide school attendance as a condition for the issuance or reinstatement of any type driver’s license. Adds §56-1-176(D) requiring schools to notify the Department of Motor Vehicles of students who are habitually truant, and the Department of Motor Vehicles to suspend the student’s driver’s license. Also adds §56-1-176(G) authorizing family court judges to suspend the license of a student who continues to accumulate unlawful absences after being placed on an order to attend school.

Adds a new section §56-1-177 to provide that a student’s driver’s license may be suspended for certain disciplinary actions. Amends §59-65-10 to raise the compulsory school attendance age to 18, and amends other sections to conform. Amends §63-19-1440 to provide that a child who violates a court order to attend school prior to turning 18 may be committed to DJJ.

IV. Child Protection, Termination of Parental Rights, Adoption, Family Court Issues

S. 64 - Popular Election of Family Court Judges

Sponsor: Sen. Ford

Status: Judiciary Committee (1/13/90)

Amends §63-3-30 to provide that family court judges be popularly elected from the state's senatorial districts.

S. 284 - Responsible Father Registry

Sponsors: Sen. Alexander

Status: Judiciary Committee Report: Favorable with Amendment (3/18/09)

Committee Amendment Adopted (4/14/09)

Recommitted to Judiciary Committee (4/28/09)

Note: Similar bill H. 3311 was enacted.

S. 434 - Guardian ad Litem Program

Sponsor: Sen. Fair

Status: Subcommittee of the Judiciary Committee (3/2/09)

Note: Similar bill H. 3118 was enacted.

S. 554 - Purposes of Child Fatality Review Committee

Sponsor: Sen. Hutto

Status: Third reading in Senate (5/12/09)

First reading in House, Judiciary Committee (5/12/09)

Amends §63-11-1950 to allow the Child Fatality Review Committee to request that DSS open a case when a fatality occurs and the committee finds that a risk of harm still exists due to reasons including, but not limited to, domestic violence, drug abuse, or abuse or neglect in the home and children continue to live in the home. Requires DSS to investigate and provide the committee with a report within 60 days.

H. 3118 - Guardian Ad Litem Program

Sponsor: Rep. Kirsh

Status: Signed by Governor (6/2/09)

Act # 37, effective 6/2/09

Amends S.C. Code §63-11-530(A) authorizing the S.C. Guardian ad Litem Program and Richland County CASA to petition the court for removal of a volunteer guardian ad litem for the following reasons: incapacity; conflict of interest; misconduct; persistent neglect of duties; incompetence; or a knowing and willful violation of program policies and procedures that affect the health, safety, and welfare of the child. Provides that the court shall determine what is in the best interest of the child when ruling on the petition. Also amends §63-11-550(A) to provide that reports and information maintained by a guardian ad litem (not just the program) are confidential.

H. 3230 – Central Registry and Child Abuse Investigations

Sponsor: Rep. E.H. Pitts

Status: Education and Public Works Committee (1/13/09)

Recalled and Referred to Judiciary Committee (1/28/09)

Amends §59-25-425 to require school districts to review the Central Registry of Child Abuse and Neglect when hiring employees. Adds §63-7-1985 to require entities engaged in the care of children to review the Central Registry before hiring a potential employee. Amends §63-7-940 to provide that information in reports classified as unfounded must be maintained by DSS for 10 years and to include SLED in the list of agencies with restricted access to the information. Amends §63-7-980 to require DSS to notify law enforcement of reports of suspected child abuse or neglect whether or not the information appears to indicate a violation of criminal law and to require the law enforcement agency to file a formal incident report. Amends §63-7-1930 relating to petitions for the placement of a name on the Central Registry by deleting the requirement that DSS must seek an order to place a person's name on the registry when a preponderance of the evidence suggests the person committed sexual abuse. Amends §63-7-1950 relating to updates of the Central Registry. Amends §63-7-1990 relating to confidentiality and release of records and information relating to the Central Registry to allow juvenile arbitrators access to this information. Amends §63-7-1440 relating to judicial review of indicated cases to change the standard of review of the family court to a trial de novo. Repeals §63-5-70 relating to unlawful conduct towards a child.

H. 3311 – Responsible Father Registry

Sponsors: Rep. Brady, Rep. Harvin

Status: Signed by Governor (6/2/09)

Act # 41, see effective dates in summary

(1) Adds §63-9-810 to establish a responsible father registry within the Department of Social Services and to provide for operation of the registry. Unmarried fathers may register in order to preserve their rights to notice of a termination of parental rights or adoption proceeding. Effective Date: Establishment of the registry and receipt of claims of paternity take effect on January 1, 2010. The sections related to an unmarried biological father's right to notice apply to TPR and adoption actions filed on or after July 1, 2010.

(2) Amends §63-7-2530 to require that a termination of parental rights hearing must be held within 120 days of the filing of the petition. The court may grant a continuance that results in the hearing being held later, but must issue an order scheduling the case for date certain. Effective Date: July 1, 2009.

(3) Amends §63-7-2550 to change the requirement that all children be served with the termination of parental rights summons and complaint. Children 14 and older must still be served; the guardian ad litem must be served for children younger than 14. Effective Date: July 1, 2009.

H. 3648 – Birth Certificates

Sponsor: Rep. Crawford

Status: Judiciary Committee (3/3/09)

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 US citizenship.

H. 3779 – Legal Representation of Children

Sponsor: Rep. Hearn

Status: Judiciary Committee (3/26/09)

Clarifies that in child abuse and neglect proceedings, children must be appointed a guardian ad litem rather than both legal counsel and a guardian ad litem. Provides that when the guardian ad litem is an attorney, the court may appoint an additional attorney to represent the guardian ad litem if the case is contested; removes the requirement that this only be done in extraordinary circumstances. Authorizes the court to appoint legal counsel for the child, and clarifies that counsel for the child may not also represent the guardian ad litem.

H. 3800 – Reporting Suspected Child Abuse

Sponsor: Rep. Toole, Rep. Brady

Status: Judiciary Committee (3/26/09)

Adds the following to the list of persons required to report suspected child abuse or neglect: School attendance officer, school administrator, foster parent, juvenile justice worker, and guardian ad litem for a child. Encourages all other people to report.

V. Criminal Child Abuse and Exploitation

S. 248 – Provision of Alcohol to Minors

Sponsors: Sen. L. Martin, Sen. Fair

Status: Third reading in Senate (5/1/09)

First reading in House, Judiciary Committee (5/12/09)

Similar: H. 3164

Adds §61-4-95 to create the offense of providing beer and wine to a person under 21 where great bodily harm or death results to the person under 21 or another person. Adds §61-4-4083 to create the offense of providing liquor to a person under 21 where great bodily harm or death results to the person under 21 or another person. Provides penalties. Stipulates that failure to require identification is prima facie evidence of a violation of this section.

S. 348 – Injuries to Children by Childcare Providers

Sponsor: Sen. Fair

Status: Judiciary Committee Report (4/22/09): Majority favorable with amendment; minority unfavorable

Similar: H. 3436

Amends §16-3-95 relating to infliction of great bodily injury upon a child to provide a mandatory minimum sentence of two years for persons convicted of this offense who are registered with or licensed by DSS pursuant to childcare facilities licensure. Further provides that no portion of the sentence may be suspended and that the person is not eligible for probation or parole prior to serving the minimum sentence. Adds §16-13-825 requiring family childcare operators and caregivers to annually complete a minimum of two hours of training approved by DSS, and requiring DSS to indicate on its website family childcare homes that are and are not in compliance with this section.

H. 3026 – Criminal Sexual Conduct Convictions

Sponsors: Rep. Kirsh

Status: Judiciary Committee (1/13/09)

Adds §16-3-750 to provide that persons convicted of criminal sexual conduct do not have custody or inheritance rights related to a child born as a result of the criminal sexual conduct. Adds §16-9-340 to prohibit defendants in criminal proceedings from threatening a witness with assertion of or denial of parental rights.

H. 3027 – Sex Offenders Living in Proximity to Schools

Sponsor: Rep. Kirsh

Status: Judiciary Committee (1/13/09)

Adds §23-3-560 to prohibits registered sex offenders from living within a one mile radius of a school, public park or playground, or college. Provides penalties.

H. 3087 – Uniformity of Residency Restrictions for Sex Offenders

Sponsor: Reps. Brady

Status: Vetoed by Governor; Veto overridden (6/16/09)

Act # 77, effective 6/16/09

Amends §23-3-535 to prohibit local governments from expanding or contracting the sex offender residency restrictions set forth in §23-3-535.

H. 3164 – Provision of Alcohol to Minors

Sponsor: Rep. Bedingfield
Status: Judiciary Committee (1/13/09)
Similar: S. 248

Adds §61-4-95 to create the felony of providing beer or wine to a person under 21 where death results to the person under 21. Adds §61-6-4083 to create the felony of providing liquor to a person under 21 and death results to the person under 21. Provides penalties.

H. 3369 – Criminal Solicitation of a Minor

Sponsor: Rep. T.R. Young, Rep. Spires
Status: Judiciary Committee (1/28/09)

Increases the penalty for violation of §16-15-342 to a \$25,000 fine or imprisonment for mandatory minimum of five years up to 25 years.

H. 3436 – Injuries to Children by Childcare Providers

Sponsor: Rep. Erickson, Rep. Brady
Status: Judiciary Committee (2/4/09)
Similar: S 348

Amends §16-3-95 to provide a minimum prison term of two years for a person convicted of infliction of great bodily injury upon a child and who is registered with or licensed by DSS pursuant to childcare facilities licensure. No portion of the sentence may be suspended. Adds §63-13-825 requiring family daycare operators and caregivers to annually complete a minimum of two hours of training approved by DSS.

VI. Child Custody Issues

S. 155 – Military Parent Equal Protection Act

Sponsors: Sen. Campsen
Status: Signed by Governor (6/2/09)
Act # 25, effective 6/2/09

Similar: H. 3171

Adds §63-5-900 through 63-5-950 to provide that military parents' service shall not be used as sole factor supporting a change in circumstances for purposes of determining custody of minor children and provides related remedial provisions for military parents who are called to active service.

S. 170 - Monetary Support for Children

Sponsor: Sen. Cleary
Status: Third reading in Senate (5/14/09)
First reading in House, Judiciary Committee (5/19/09)

Adds §63-17-385 to establish procedures for filing an affidavit that a parent has failed to pay court-ordered monetary support such as medical or educational expenses (excluding periodic child support payments). Requires the family court to issue a rule to show cause upon receipt of a petition accompanied by an authorized affidavit.

S. 281 – Joint Custody

Sponsor: Sen. Sheheen
Status: Subcommittee of Judiciary Committee (1/23/09)
Similar: H. 3712

Provides a definition of joint custody. Requires that both parents in joint custody arrangement have equal weight in major decisions, even if one is designated primary caregiver.

S. 383 – Uniform Child Abduction Prevention Act

Sponsor: Sen. Hayes
Status: Third Reading in Senate (3/24/09)
House Judiciary Committee (3/25/09)

Adds §63-15-500 through 63-15-590 to provide for court ordered abduction prevention measures and for enforcement procedures in support of such orders.

S. 640 - Equal Access to Counseling Records

Sponsor: Sen. Campsen
Status: Subcommittee of Judiciary Committee (4/16/09)

Amends §65-5-30 to provide that both parents have equal access to counseling and therapy records, in addition to educational and medical records.

H. 3012 - Suspension of Child Support

Sponsor: Rep. Hosey
Status: Judiciary Committee (1/13/09)

Adds §63-17-495 to provide that, if a person is incarcerated for failure to pay child support, child support payments are suspended with no accrual of arrearages and arrearages are held in abeyance.

H. 3165 - Grandparent Visitation

Sponsor: Rep. King

Status: Judiciary Committee (1/13/09)

Amends §63-3-530(A)(33) to change the circumstances under which a court may order grandparent visitation. Provides for grandparent visitation if the parents are depriving the grandparents of visits under certain conditions set forth in bill.

H. 3171 - Military Parent Equal Protection Act

Sponsor: Rep. J.E. Smith

Status: Third Reading in House (2-13-09)

Senate Judiciary Committee (2/17/09)

Note: Similar bill S. 155 was enacted.

H. 3182 - Guardian ad Litem Fee

Sponsor: Rep. J.R. Smith

Status: Judiciary Committee (1/13/09)

Amends §63-3-850 to provide that the court cannot require an indigent party to pay a guardian ad litem's fee. This pertains to private custody or visitation proceedings.

H. 3412 - Grandparent Visitation

Sponsor: Rep. Weeks

Status: Judiciary Committee (2/3/09)

Similar: H. 3165

Amends §63-3-530(A)(33) to change the circumstances under which a court may order grandparent visitation. Provides for grandparent visitation if the parents are depriving the grandparents of visits with the child and it is in the child's best interest of the child to have visitation.

H. 3712 - Joint Custody

Sponsor: Rep. Funderburk

Status: Judiciary Committee (3/11/09)

Similar: 281

Adds §63-15-15 to provides a definition of joint custody. Requires that both parents in joint custody arrangement have equal weight in major decisions, even if one is designated primary caregiver.

VII. Juvenile Justice Issues

S. 61 – Curfew for Minors

Sponsor: Sen. Ford

Status: Judiciary Committee (1/13/09)

Adds §16-19-492 to enact a statewide curfew for minors (17 and under) from midnight through 5:00 AM Monday through Friday and 1:00 AM through 5:00 AM on weekends. This bill would make it unlawful for a minor to be in a public place during the curfew hours unless accompanied by a parent, at a job, involved in an activity sponsored by a school, religious, or civic organization, or performing an errand with parental permission. Violators would be released to their parents or detained for the remainder of the curfew period. The first offense would result in a warning; a fine up to \$1,000 would apply for a subsequent offenses.

S. 191 – Reduction of Recidivism

Sponsor: Sen. McConnell

Status: Third reading in Senate (2/26/09)

First reading in House, Judiciary Committee (2/26/09)

Amends §63-19-1850(A) to provide that the conditions of a juvenile's release from the custody of DJJ must require the juvenile to permit: (1) The search, with or without either a warrant or cause, of the juvenile parolee's person, any vehicle the juvenile owns or drives, and any of the juvenile's possessions by his aftercare counselor, any probation agent accompanied by a law enforcement officer, or any other law enforcement officer; and (2) Search of the juvenile's residence with or without a warrant based on reasonable suspicions. Amends §63-19 1820(A)(1) to require that, prior to conditional release, juveniles agree in writing to be subject to these searches. The bill also contains similar provisions for various classes of adult offenders.

S. 511 – Unlawful Sexual Conduct between Minors

Sponsor: Sen. Hutto

Status: Subcommittee of Judiciary Committee (3/5/09)

Adds §16-3-655.5 to creates the misdemeanor offense of unlawful sex between minors when a person 17 or 18 years old has sex with a person who is 14 or 15. Convictions under this section would not require registering as a sex offender.

H. 3201 – Juveniles' Right to Counsel

Sponsor: Rep. Whipper

Status: Judiciary Committee (1/13/09)

Adds §63-19-1050 and amends other code sections providing that neither a child nor parent may waive the child's right to counsel in juvenile proceedings.

H. 3315 – Disturbing Schools

Sponsor: Rep. Kelly

Status: Judiciary Committee (1/27/09)

Amends §16-17-420 to further define the offense of disturbing schools, distinguishing between the conduct of students and non-students. Increases the penalty for the offense. Amends §16-19-1020 to require that family counseling must be sought prior to DJJ accepting a referral or a petition being filed against a child for the status offense of incorrigibility.

H. 4212 - Disturbing Schools

Sponsor: Rep. Jennings

Status: Prefiled (11/17/09)

Amends §16-17-420 to provide that violations of this statute must be tried exclusively in summary court.