**South Carolina General Assembly**

119th Session, 2011-2012

**A259, R301, H4614**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pitts, Lucas, Hearn, Brannon, Weeks, Spires, Loftis and Clemmons

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Introduced in the House on January 17, 2012

Introduced in the Senate on February 1, 2012

Last Amended on May 30, 2012

Passed by the General Assembly on June 6, 2012

Governor's Action: June 18, 2012, Signed

Summary: Procedures and requirements of court-ordered child custody

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/17/2012 House Introduced and read first time ([House Journal‑page 10](file:///h%3A%5Chj%20archive%5C2012%5C01-17-12.docx))

 1/17/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 10](file:///h%3A%5Chj%20archive%5C2012%5C01-17-12.docx))

 1/19/2012 House Member(s) request name added as sponsor: Spires

 1/25/2012 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 19](file:///h%3A%5Chj%20archive%5C2012%5C01-25-12.docx))

 1/26/2012 House 24 hour point of order ([House Journal‑page 22](file:///h%3A%5Chj%20archive%5C2012%5C01-26-12.docx))

 1/26/2012 House Member(s) request name added as sponsor: Loftis, Clemmons

 1/31/2012 House Amended ([House Journal‑page 38](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 1/31/2012 House Read second time ([House Journal‑page 38](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 1/31/2012 House Roll call Yeas‑104 Nays‑0 ([House Journal‑page 45](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 2/1/2012 House Read third time and sent to Senate ([House Journal‑page 7](file:///h%3A%5Chj%20archive%5C2012%5C02-01-12.docx))

 2/1/2012 House Roll call Yeas‑95 Nays‑0 ([House Journal‑page 7](file:///h%3A%5Chj%20archive%5C2012%5C02-01-12.docx))

 2/1/2012 Senate Introduced and read first time ([Senate Journal‑page 15](file:///h%3A%5Csj%20archive%5C2012%5C02-01-12.docx))

 2/1/2012 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 15](file:///h%3A%5Csj%20archive%5C2012%5C02-01-12.docx))

 2/6/2012 Senate Referred to Subcommittee: Sheheen (ch), Knotts, Campsen, Lourie, Campbell

 4/18/2012 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 16](file:///h%3A%5Csj%20archive%5C2012%5C04-18-12.docx))

 4/19/2012 Scrivener's error corrected

 5/30/2012 Senate Committee Amendment Amended and Adopted ([Senate Journal‑page 32](file:///h%3A%5Csj%20archive%5C2012%5C05-30-12.docx))

 5/30/2012 Senate Read second time ([Senate Journal‑page 32](file:///h%3A%5Csj%20archive%5C2012%5C05-30-12.docx))

 5/30/2012 Senate Roll call Ayes‑33 Nays‑0 ([Senate Journal‑page 32](file:///h%3A%5Csj%20archive%5C2012%5C05-30-12.docx))

 6/6/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 5](file:///h%3A%5Csj%20archive%5C2012%5C06-06-12.docx))

 6/6/2012 House Concurred in Senate amendment and enrolled ([House Journal‑page 89](file:///h%3A%5Chj%20archive%5C2012%5C06-06-12.docx))

 6/6/2012 House Roll call Yeas‑100 Nays‑0 ([House Journal‑page 90](file:///h%3A%5Chj%20archive%5C2012%5C06-06-12.docx))

 6/12/2012 Ratified R 301

 6/18/2012 Signed By Governor

 6/25/2012 Effective date See Act for Effective Date

 6/27/2012 Act No. 259

**VERSIONS OF THIS BILL**

[1/17/2012](file:///p%3A%5Cpprever%5C2011-12%5C4614_20120117.docx)

[1/25/2012](file:///p%3A%5Cpprever%5C2011-12%5C4614_20120125.docx)

[1/31/2012](file:///p%3A%5Cpprever%5C2011-12%5C4614_20120131.docx)

[4/18/2012](file:///p%3A%5Cpprever%5C2011-12%5C4614_20120418.docx)

[4/19/2012](file:///p%3A%5Cpprever%5C2011-12%5C4614_20120419.docx)

[5/30/2012](file:///p%3A%5Cpprever%5C2011-12%5C4614_20120530.docx)

(A259, R301, H4614)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 15, TITLE 63 SO AS TO SPECIFY CERTAIN PROCEDURES AND REQUIREMENTS FOR COURT‑ORDERED CHILD CUSTODY, INCLUDING, BUT NOT LIMITED TO, DEFINING “JOINT CUSTODY” AND “SOLE CUSTODY”, REQUIRING EACH PARENT TO PREPARE AND SUBMIT A PARENTING PLAN OR TO JOINTLY SUBMIT A PLAN, WHICH THE COURT MUST CONSIDER BEFORE ISSUING TEMPORARY AND FINAL CUSTODY ORDERS, AND PROVIDING THAT THE SOUTH CAROLINA SUPREME COURT SHALL DEVELOP RULES AND FORMS FOR IMPLEMENTATION OF THE PARENTING PLAN; TO REQUIRE THE COURT TO MAKE FINAL CUSTODY DETERMINATIONS IN THE BEST INTEREST OF THE CHILD BASED UPON THE EVIDENCE PRESENTED, TO REQUIRE THE COURT TO CONSIDER JOINT CUSTODY IF EITHER PARENT SEEKS IT, AS WELL AS ALL CUSTODY OPTIONS, STATING IN ITS FINAL ORDER THE REASONING FOR ITS CUSTODY DETERMINATION, AND TO ALLOW THE COURT TO ALLOCATE PARENTING TIME REGARDLESS OF THE CUSTODY DETERMINATION; TO PROVIDE MATTERS THAT MAY BE INCLUDED IN A CUSTODY ORDER AND TO PROVIDE FACTORS THE COURT MAY CONSIDER IN ISSUING OR MODIFYING A CUSTODY ORDER WHEN CONSIDERING THE BEST INTEREST OF THE CHILD; TO PROVIDE THAT IF A COURT DETERMINES IN ITS ORDER THAT TELEPHONIC AND ELECTRONIC COMMUNICATIONS WITH THE PARENT IS IN THE BEST INTEREST OF THE CHILD, EACH PARENT SHOULD FACILITATE OPPORTUNITIES PROVIDING FOR SUCH COMMUNICATIONS; TO PROVIDE THAT REGARDLESS OF CUSTODY ARRANGEMENTS AND UNLESS OTHERWISE PROHIBITED BY AN ORDER OF THE COURT, PARENTS HAVE EQUAL ACCESS AND RIGHTS TO OBTAIN ALL EDUCATIONAL AND MEDICAL RECORDS OF THEIR CHILDREN AND TO PARTICIPATE IN THEIR CHILDREN’S SCHOOL AND EXTRACURRICULAR ACTIVITIES; AND TO CREATE THE SOUTH CAROLINA FAMILY COURT STUDY COMMITTEE TO STUDY THE FEASIBILITY OF TRACKING THE OUTCOME OF CONTESTED CUSTODY PROCEEDINGS AND TO PROVIDE FOR ITS MEMBERSHIP, STAFFING, AND REPORTING.**

Whereas, fit parents have a right to make determinations concerning the care of their children; and

Whereas, the relationships between children and their fit parents should be respected and nurtured to the fullest extent possible; and

Whereas, the best interest of the child is the primary and controlling consideration of South Carolina courts in all child custody controversies. Now, therefore,

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

**Court-ordered child custody, joint and sole custody, parenting plans, contents of court orders, factors in considering best interest of the child, rights and duties of parents**

SECTION 1. Chapter 15, Title 63 of the 1976 Code is amended by adding:

“Article 2

Court‑Ordered Child Custody

 Section 63‑15‑210. As used in this article:

 (1) ‘Joint custody’ means both parents have equal rights and responsibilities for major decisions concerning the child, including the child’s education, medical and dental care, extracurricular activities, and religious training; however, a judge may designate one parent to have sole authority to make specific, identified decisions while both parents retain equal rights and responsibilities for all other decisions.

 (2) ‘Sole custody’ means a person, including, but not limited to, a parent who has temporary or permanent custody of a child and, unless otherwise provided for by court order, the rights and responsibilities for major decisions concerning the child, including the child’s education, medical and dental care, extracurricular activities, and religious training.

 Section 63‑15‑220. (A) At all temporary hearings where custody is contested, each parent must prepare, file, and submit to the court a parenting plan, which reflects parental preferences, the allocation of parenting time to be spent with each parent, and major decisions, including, but not limited to, the child’s education, medical and dental care, extracurricular activities and religious training. However, the parties may elect to prepare, file, and submit a joint parenting plan. The court shall issue temporary and final custody orders only after considering these parenting plans; however, the failure by a party to submit a parenting plan to the court does not preclude the court from issuing a temporary or final custody order.

 (B) At the final hearing, either party may file and submit an updated parenting plan for the court’s consideration.

 (C) The South Carolina Supreme Court shall develop rules and forms for the implementation of the parenting plan.

 Section 63‑15‑230. (A) The court shall make the final custody determination in the best interest of the child based upon the evidence presented.

 (B) The court may award joint custody to both parents or sole custody to either parent.

 (C) If custody is contested or if either parent seeks an award of joint custody, the court shall consider all custody options, including, but not limited to, joint custody, and, in its final order, the court shall state its determination as to custody and shall state its reasoning for that decision.

 (D) Notwithstanding the custody determination, the court may allocate parenting time in the best interest of the child.

 Section 63‑15‑240. (A) In issuing or modifying an order for custody affecting the rights and responsibilities of the parents, the order may include, but is not limited to:

 (1) the approval of a parenting plan;

 (2) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent;

 (3) the award of joint custody, in which case the order must include:

 (a) residential arrangements with each parent in accordance with the needs of each child; and

 (b) how consultations and communications between the parents will take place, generally and specifically, with regard to major decisions concerning the child’s health, medical and dental care, education, extracurricular activities, and religious training;

 (4) other custody arrangements as the court may determine to be in the best interest of the child.

 (B) In issuing or modifying a custody order, the court must consider the best interest of the child, which may include, but is not limited to:

 (1) the temperament and developmental needs of the child;

 (2) the capacity and the disposition of the parents to understand and meet the needs of the child;

 (3) the preferences of each child;

 (4) the wishes of the parents as to custody;

 (5) the past and current interaction and relationship of the child with each parent, the child’s siblings, and any other person, including a grandparent, who may significantly affect the best interest of the child;

 (6) the actions of each parent to encourage the continuing parent‑child relationship between the child and the other parent, as is appropriate, including compliance with court orders;

 (7) the manipulation by or coercive behavior of the parents in an effort to involve the child in the parents’ dispute;

 (8) any effort by one parent to disparage the other parent in front of the child;

 (9) the ability of each parent to be actively involved in the life of the child;

 (10) the child’s adjustment to his or her home, school, and community environments;

 (11) the stability of the child’s existing and proposed residences;

 (12) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, must not be determinative of custody unless the proposed custodial arrangement is not in the best interest of the child;

 (13) the child’s cultural and spiritual background;

 (14) whether the child or a sibling of the child has been abused or neglected;

 (15) whether one parent has perpetrated domestic violence or child abuse or the effect on the child of the actions of an abuser if any domestic violence has occurred between the parents or between a parent and another individual or between the parent and the child;

 (16) whether one parent has relocated more than one hundred miles from the child’s primary residence in the past year, unless the parent relocated for safety reasons; and

 (17) other factors as the court considers necessary.

 Section 63‑15‑250. In addition to all rights and duties given to parents pursuant to Section 63‑5‑30:

 (A) when a court orders sole custody to one parent, the custodial parent, except in cases of abuse, neglect, or abandonment, should facilitate opportunities for reasonable telephonic and electronic communication between the minor child and the noncustodial parent, as appropriate, as provided for by court order if the court determines that this type of communication is in the best interest of the child; and

 (B) when a court orders joint custody to both parents, each parent should facilitate opportunities for reasonable telephonic and electronic communication between the minor child and the other parent, as appropriate, as provided for by court order if the court determines that this type of communication is in the best interest of the child.

 Section 63‑15‑260. Notwithstanding the custody arrangement and in addition to all rights and duties given to parents pursuant to Section 63‑5‑30, each parent has equal access and the same right to obtain all educational records and medical records of his or her minor children and the right to participate in the children’s school activities and extracurricular activities that are held in public locations unless prohibited by an order of the court or State law.”

**Family Court Study Committee**

SECTION 2. (A) The South Carolina Family Court Study Committee is created to study the feasibility of tracking the outcome of contested temporary and final custody proceedings in the family court.

 (B) The study committee shall be composed of the following members:

 (1) one member of the judiciary appointed by the Chief Justice of the South Carolina Supreme Court;

 (2) the Director of Court Administration, or his designee;

 (3) the Speaker of the House of Representatives, or his designee;

 (4) the President Pro Tempore of the Senate, or his designee;

 (5) the Chairman of the House Judiciary Committee, or his designee;

 (6) the Chairman of the Senate Judiciary Committee, or his designee; and

 (7) the South Carolina Crime Victim Ombudsman, or his designee.

 (C) The members of the study committee shall serve without compensation and may not receive mileage or per diem.

 (D) Staff of the House of Representatives and the Senate shall serve as staff to the study committee, as needed.

 (E) The study committee shall issue its findings concerning the feasibility of tracking the outcome of temporary and final contested custody proceedings in the family court by January 31, 2013.

**Time effective**

SECTION 3. Section 63‑15‑220, as added by SECTION 1 of this act, is effective sixty days after approval of the Governor. All other sections and subsections of this act take effect upon approval by the Governor and apply to causes of action arising on or after the effective date of this act.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

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