**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4977**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Horne and George

Document Path: l:\council\bills\nbd\11332vr14.docx

Introduced in the House on March 26, 2014

Currently residing in the House Committee on **Judiciary**

Summary: Intercountry adoption services

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/26/2014 House Introduced and read first time ([House Journal‑page 12](file:///H:\HJ%20Archive\2014\03-26-14.docx))

3/26/2014 House Referred to Committee on **Judiciary** ([House Journal‑page 12](file:///H:\HJ%20Archive\2014\03-26-14.docx))

4/2/2014 House Member(s) request name added as sponsor: George

**VERSIONS OF THIS BILL**

[3/26/2014](file:///p:\pprever\2013-14\4977_20140326.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑9‑80 SO AS TO REQUIRE AGENCIES AND ATTORNEYS PROVIDING INTERCOUNTRY ADOPTION SERVICES TO BE LICENSED IN THIS STATE AND COMPLY WITH FEDERAL LAW, INCLUDING THE REQUIREMENT TO BE ACCREDITED PURSUANT TO THE INTERCOUNTRY ADOPTION ACT AND THE HAGUE CONVENTION ON INTERCOUNTRY ADOPTION, AND TO ESTABLISH CRIMINAL PENALTIES; BY ADDING SECTION 63‑9‑930 SO AS TO PROHIBIT AN ADOPTIVE PARENT, OR A PERSON ACTING ON BEHALF OF AN ADOPTIVE PARENT, FROM PLACING THE ADOPTED CHILD WITH ANOTHER PERSON WITHOUT APPROVAL OF THE COURT, UNLESS THE OTHER PERSON IS A RELATIVE OF THE ADOPTIVE PARENT OF THE FIRST, SECOND, OR THIRD DEGREE, AND TO ESTABLISH CRIMINAL PENALTIES; TO AMEND SECTION 63‑9‑790, RELATING TO AMENDED BIRTH CERTIFICATES, SO AS TO REQUIRE THE STATE REGISTRAR TO PROVIDE INFORMATION REGARDING POST-ADOPTION SERVICES TO AN ADOPTIVE PARENT WITH THE CERTIFICATE OF BIRTH; TO AMEND SECTION 63‑9‑910, RELATING TO INTERCOUNTRY ADOPTION, SO AS TO REQUIRE THE STATE REGISTRAR TO PROVIDE INFORMATION REGARDING POST-ADOPTION SERVICES TO AN ADOPTIVE PARENT WITH THE CERTIFICATE OF BIRTH; TO AMEND SECTION 63‑9‑1310, RELATING TO THE REQUIREMENT OF THE DEPARTMENT OF SOCIAL SERVICES TO PROVIDE ADOPTION SERVICES, SO AS TO REQUIRE SERVICES TO BE MADE AVAILABLE TO ALL ADOPTIVE FAMILIES; TO AMEND SECTION 63‑9‑1330, RELATING TO THE DEPARTMENT OF SOCIAL SERVICES’ ADOPTION PROGRAM, SO AS TO REQUIRE THAT THE ADOPTION PROGRAM OFFER POST‑ADOPTION SERVICES AND THAT THESE SERVICES BE MADE AVAILABLE TO ALL FAMILIES ADOPTING CHILDREN AND TO ALLOW DEPARTMENT OF SOCIAL SERVICES TO CHARGE REASONABLE FEES FOR THESE SERVICES; TO AMEND SECTION 16‑3‑2010, RELATING TO DEFINITIONS FOR THE OFFENSE OF TRAFFICKING IN PERSONS, SO AS TO CHANGE THE DEFINITION OF “TRAFFICKING IN PERSONS” TO INCLUDE ACTIONS TAKEN WITH REGARD TO ADOPTION CERTIFICATES; AND TO AMEND SECTION 16‑3‑2020, RELATING TO THE ELEMENTS AND PENALTIES OF THE CRIME OF TRAFFICKING IN PERSONS, SO AS TO ALLOW PROSECUTION OF A VICTIM WHO IS RELATED TO A DEFENDANT BY ADOPTION.

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

SECTION 1. Subarticle 1, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

“Section 63‑9‑80. (A) An adoptive parent, or a person acting on behalf of an adoptive parent, is prohibited without approval of the court from placing the adopted child with another person with the intent that the other person will act as the custodian of the adopted child and provide permanently for the child’s care and supervision, unless the other person is a relative of the adoptive parent of the first, second, or third degree.

(B) An adoptive parent, or a person acting on behalf of an adoptive parent, who violates subsection (A), in addition to any civil or criminal penalties for violation of another state or federal law, is guilty of a misdemeanor and must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C) If the court determines by clear and convincing evidence that the adoptive parent, or a person acting on behalf of an adoptive parent, has violated subsection (A), the court may determine whether:

(1) the adoptive parent has abandoned the child pursuant to Section 63‑7‑20; and

(2) the adoptive parent, or the person acting on behalf of the adoptive parent, has violated Section 16‑3‑2020.”

SECTION 2. Subarticle 9, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

“Section 63‑9‑930. (A) An agency or attorney that places or accepts children for intercountry adoption must:

(1) be licensed in this State to place or accept children for adoption;

(2) be accredited pursuant to the Intercountry Adoption Act and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption; and

(3) comply with the Intercountry Adoption Act and the accreditation standards established in regulations promulgated pursuant to that act.

(B) An agency or attorney that violates subsection (A), in addition to any civil or criminal penalties for violation of another state or federal law, is guilty of a misdemeanor and must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.”

SECTION 3. Section 63‑9‑790(E) of the 1976 Code is amended to read:

“(E)(1) The state registrar, upon receipt of a certified certificate of adoption, shall take action as provided ~~by~~ in Section 44‑63‑140 with respect to issuance and filing of an amended certificate of birth.

(2) The state registrar shall provide written information to the adoptive parent regarding post‑adoption services that are available pursuant to Section 63‑9‑1330 with the certificate of birth. The Department of Social Services in consultation with the state registrar shall prepare and provide to the state registrar the written information to be given to the adoptive parent regarding the availability of post‑adoption services.”

SECTION 4. Section 63‑9‑910(D) of the 1976 Code is amended to read:

“(D)(1) The state registrar, upon receipt of the order and certificate of adoption, shall take action as provided in Section 44‑63‑140 with respect to the issuance and filing of an amended certificate of birth.

(2) The state registrar shall provide written information to the adoptive parent regarding post‑adoption services that are available pursuant to Section 63‑9‑1330 with the certificate of birth. The Department of Social Services in consultation with the state registrar shall prepare and provide to the state registrar the written information to be given to the adoptive parent regarding the availability of post‑adoption services.”

SECTION 5. Section 63‑9‑1310 of the 1976 Code is amended to read:

“(A) ~~It is~~ The purpose of this article is to achieve the objective of the best interests of the child, as the primary client. Adoption programs must be structured so that all questions of interpretation are resolved with that objective in mind. To achieve this objective, adoption services must be delivered in the most effective and cost‑efficient manner with assurances for the provision of quality services.

(B) Adoption services must be made available to all adoptive parents, regardless of whether the child:

(1) was placed for adoption by the department;

(2) was placed for adoption by a private child-placing agency or attorney licensed in this State; or

(3) is a foreign‑born child who was not a citizen of the United States who is adopted pursuant to the Intercountry Adoption Act.”

SECTION 6. Section 63‑9‑1330 of the 1976 Code is amended to read:

“(A) The Department of Social Services shall administer an adoption program on behalf of the State. Adoption services must be available statewide. The adoption program provided by the department must be a centrally administered state program. The department shall designate regions which will be administered by the state office. The adoption unit shall constitute a separate and distinct unit within the department so as to assure specialization of effort and effective access to the department director.

(B) ~~This~~ The adoption unit must be staffed with qualified personnel professionally trained in the social work or other related fields. The department shall continually evaluate its staffing, functions, policies, and practices on the basis of nationally recognized standards. A committee to advise the department on all children’s services must be appointed by the department director. The adoption unit staff and persons appointed to the committee must be knowledgeable ~~on~~ about domestic and intercountry adoption, ~~protective services~~ child protection, foster care, family preservation, and ~~other~~ related children’s services, including post‑adoption services.

(C)(1) The adoption unit shall offer post‑adoption services to a person who has adopted a child pursuant to Section 63‑9‑710 or 63‑9‑910 to minimize the likelihood of adoption disruptions.

(2) The department may establish and charge a reasonable fee for post‑adoption services, except that the department is prohibited from charging a person who adopts a child from the custody of the department a fee to receive post‑adoption services.

(3) The department upon request shall provide an adoptive parent the names and contact information of private agencies and other organizations in the community that provide post‑adoption services, assist the adoptive parent with referrals to these agencies or organizations, and establish a process through which an agency or other organization may request to be included on the list provided to an adoptive parent pursuant to this subsection and for referrals for services.

(4) Post‑adoption services offered by the department or by agencies and other organization to which the department refers an adoptive parent should include, but not be limited to:

(a) developmental and educational services;

(b) mental health services;

(c) therapeutic services to improve the child’s attachment, behavior, and social skills;

(d) individual, family, or marital counseling; and

(e) respite care.”

SECTION 7. Section 16‑3‑2010(9) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

“(9) ‘Trafficking in persons’ means when a victim is subjected to or a person attempts to subject a victim to sex trafficking, forced labor or services, involuntary servitude, or debt bondage by employing one of the following:

(a) physically restraining or threatening to physically restrain another person;

(b) knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport, adoption certificate issued by another country, or other immigration document, or another actual or purported government identification document, of the victim;

(c) knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported adoption certificate issued by any state;

(d) extortion or blackmail;

~~(d)~~(e) causing or threatening to cause financial harm to the victim;

~~(e)~~(f) facilitating or controlling a victim’s access to a controlled substance; or

~~(f)~~(g) coercion.”

SECTION 8. Section 16‑3‑2020(K) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

“(K) Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation:

(1) the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct;

(2) the victim’s connection by blood, adoption, or marriage to a defendant in the case or to anyone involved in the victim’s trafficking;

(3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section;

(4) age of consent to sex, legal age of marriage, or other discretionary age; and

(5) mistake as to the victim’s age, even if the mistake is reasonable.”

SECTION 9. This act takes effect upon approval by the Governor.

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