**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4908**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bamberg, Collins, W. Newton, Robbins, J.L. Johnson, Gatch, Murphy, Rutherford, Stavrinakis and Carter

Document Path: LC-0322VR24.docx

Introduced in the House on January 23, 2024

Currently residing in the House

Summary: Department of Social Services

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/23/2024 House Introduced and read first time (House Journal‑page 9)

 1/23/2024 House Referred to Committee on **Judiciary** (House Journal‑page 9)

 2/1/2024 House Member(s) request name added as sponsor: Carter

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4908&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[01/23/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4908_20240123.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 63-7-1230, 63-7-1410, and 63-7-1430, RELATING in part TO the automatic entry of the names of certain individuals in the central registry of abuse or neglect based on an administrative finding of child abuse or neglect by the department of social services and the department’s role in reviewing these administrative findings, SO AS TO eliminate the department’s role in the review of such ADMINISTRATIVE findings and to prohibit automatic entry in the central registry prior to judicial review; and by adding section 63-7-1605 so as to establish a family court proceeding and process for review of certain department determinations of findings of child abuse or neglect.

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

SECTION 1. Section 63-7-1230 of the S.C. Code is amended to read:

 Section 63-7-1230. When the investigation performed pursuant to this subarticle results in a determination by the department based on a preponderance of the evidence that an individual has harmed a child or threatened a child with harm, as defined in Section 63-7-20, the name of that individual must be entered immediately in the Central Registry of Child Abuse and Neglect. The department must notify the individual in writing by certified mail that his name has been entered in the registry, of his right to request an appeal of the decision to enter his name in the registry of the determination, of the individual’s right to seek judicial review of the determination in the family court pursuant to Section 63-7-1605, and of the possible ramifications regarding the entry of the individual’s name in the Central Registry of Abuse and Neglect, future employment, and licensing if he allows his name to remain in the registrythe individual does not seek judicial review of the decision in the family court pursuant to Section 63-7-1605. The procedures set forth in Subarticle 9 apply when an individual challenges the entry of his name in the registry and challenges of the entry in the registry pursuant to this section must be given expedited review in the appellate process.

SECTION 2. Section 63-7-1410 of the S.C. Code is amended to read:

 Section 63-7-1410. The purpose of this subarticle is to provide a child protective services appeals process for reports that have been indicated pursuant to Subarticles 5 and 13 and are not being brought before the family court for disposition and for reports indicated and entered in the Central Registry pursuant to Section 63-7-1230 and not being brought before the family court for disposition. The appeals hearing must be scheduled and conducted in accordance with the department's fair hearing regulations. This process is available only to the person determined to have abused or neglected the child.

SECTION 3. Section 63-7-1430 of the S.C. Code is amended to read:

 Section 63-7-1430. (A) If the department determines that a report of suspected child abuse or neglect is indicated and the department is not taking the case to the family court for disposition, or if the case was entered in the Central Registry pursuant to Section 63-7-1230 and the department is not taking the case to family court for disposition, the department shall provide notice of the case decision by certified mail to the person determined to have abused or neglected the child. The notice must inform the person of the right to appeal the case decision and that, if he intends to appeal the decision, he must notify the department of his intent in writing within thirty days of receipt of the notice. The notice also must advise the person that the appeal process is for the purpose of determining whether a preponderance of evidence supports the case decision that the person abused or neglected the child. If the person does not notify the department of his intent to appeal in writing within thirty days of receipt of the notice, the right to appeal is waived by the person and the case decision becomes final.

 (B) Within fourteen days after receipt of a notice of intent to appeal, an appropriate official of the department designated by the director must conduct an interim review of case documentation and the case determination. The interim review may not delay the scheduling of the contested case hearing. If the official conducting the interim review decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database as provided in Section 63-7-930(B)(2) or (3). If the person's name was in the Central Registry as a result of a determination pursuant to Section 63-7-1230 and the interim review results in a reversal of the decision that supports that entry, the person's name must be removed from the Central Registry.

 (C) The state director shall appoint a hearing officer to conduct a contested case hearing for each case decision appealed. The hearing officer shall prepare recommended findings of fact and conclusions of law for review by the state director or the state director's designee who shall render the final decision. The designee under this subsection must not be a person who was involved in making the original case decision or who conducted the interim review of the original case decision. The purpose of the hearing is to determine whether there is a preponderance of evidence that the appellant was responsible for abuse or neglect of the child.

 (D) After a contested case hearing, if the state director or the director's designee decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database as provided in Section 63-7-930(B)(2) or (3). If the person's name was in the Central Registry as a result of a determination pursuant to Section 63-7-1230 and the state director or the director's designee reverses the decision that supports that entry, the person's name must be removed from the Central Registry. If the state director or the director's designee affirms the determination against the appellant, the appellant has the right to seek judicial review in the family court of the jurisdiction in which the case originated.

SECTION 4. Subarticle 11, Article 3, Chapter 7, Title 63 of the S.C. Code is amended by adding:

 Section 63-7-1605. (A) An individual seeking judicial review of a determination by the department pursuant to Section 63-7-1230 shall file a petition in the family court within thirty days after the department notifies the individual in writing by certified mail of the determination, of the individual’s right to seek judicial review of the determination in the family court as provided in this section, and of the possible ramifications regarding the entry of the individual’s name in the Central Registry of Abuse and Neglect, future employment, and licensing if the individual does not seek judicial review of the decision in the family court pursuant to this section.

 (B) The individual seeking judicial review shall serve a copy of the petition upon the department. The family court shall conduct a trial de novo. The individual and the department may introduce, examine, and cross-examine witnesses during the family court proceeding. The court shall enter judgment upon the pleadings, a certified transcript of the administrative record, which must include the evidence that formed the basis of the administrative determination, and any evidence introduced in the family court proceeding. The judgment must include a determination of whether the underlying decision of the department that the individual abused or neglected the child should be affirmed or reversed.

 (C)(1) If the family court determines at the conclusion of the proceeding that there is a preponderance of the evidence that the individual abused or neglected the child, the individual’s name must be entered immediately in the Central Registry of Abuse and Neglect. The individual may appeal the family court decision pursuant to the South Carolina Rules of Appellate Procedure; provided, however, the appeal of the family court determination does not stay entry of the individual’s name in the Central Registry.

 (2) If the family court determines that there is not a preponderance of the evidence that the individual abused or neglected the child, the department’s decision must be reversed and, if applicable, the individual must be reinstated with backpay. The department may appeal the family court decision pursuant to the South Carolina Rules of Appellate Procedure.

 (D) The record of a family court proceeding pursuant to this section must be sealed and kept as a permanent record of the court and withheld from inspection. No person may have access to the record except for good cause shown by order of the judge of the court or upon written consent of the individual seeking judicial review.

SECTION 5. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑