

Legislative Oversight Committee

Full Committee Study of the Department of Social Services

April 13, 2016



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee’s study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available	Full Committee Approved the Subcommittee’s Study	April 13, 2016

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EXECUTIVE SUMMARY

Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly**; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the **Subcommittee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.¹

Study Process

Figure 1. Summary of Key Dates and Actions of the Study Process, 2015-2016

Legislative Oversight Committee Actions

- January 7 - Approves seven-year study recommendations for the Speaker
- January 13 - Speaker approves seven-year study recommendations, and recommendations are published in the House Journal
- February 5 - Approves the priority of the study of the agency
- February 10 - Provides agency with notification about the start of its oversight study

Healthcare Subcommittee Actions

- March 17 - Holds introductory meeting with the agency and receives overview of the agency from the agency head
- May 7 - Holds meeting with the agency head to discuss the scope of the oversight study
- November 9 - Holds meeting with agency staff to discuss agency recommendations
- November 23 - Holds meeting with the agency staff to gain a better understanding of the agency’s recommended changes to the law
- January 6 - Receives public input
- February 3 - Holds meeting with agency staff to receive responses to subcommittee inquiries over the course of the study
- February 11 - Holds meeting to formulate remainder of subcommittee recommendations
- February 25 - Notifies Legislative Oversight Committee Chairman that the Subcommittee Study on DSS is ready for full Committee review

Department of Social Services Actions

- April 30 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- May 22 - Submits its Program Evaluation Report to the Committee
- May - February - Meets with and responds to Subcommittee inquiries
- February 11 - Submits its 2016 Annual Restructuring Report

Public's Actions

- May 1 - May 31 - Responds to survey about the agency
- January 6 - Provides testimony at a public input hearing
- Ongoing - Submits comments on the Oversight Committee's webpage on the General Assembly's website (www.scstatehouse.gov)

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency's self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to the Staff Study, Program Evaluation Report, Accountability Report, Restructuring Report and videos of meeting with the agency can all be found on the Committee's website.

Continue

The Subcommittee recommends the agency continue all programs. Additionally, the Subcommittee recommends continuation of laws relating to the agency which are not listed under Revise or Eliminate below.

Revise

The Subcommittee recommends revisions to laws relating to the agency. The specific revised language for each are included in the Recommendations Section of this Study. In summary, the Subcommittee recommends revising the following:

- South Carolina Code of Laws § 43-5-220 to require use of Child Support Guidelines in establishing child support orders;
- South Carolina Code of Laws § 63-17-1210 to require employers to participate in the Employer New Hire Reporting program and add to the data that the employer is required to report;

- South Carolina Code of Laws § 63-17-2310 *et seq* to clarify the name of the Financial Institution Data Match program, clarify the groups of entities required to report, and insert an additional penalty for an entity's refusal to comply;
- South Carolina Code of Laws §63-17-2710 *et seq* to resolve ambiguities in the wording of the child support lien statutes in order to remove hindrances to attach assets of people who fail to meet their child support obligations; and
- South Carolina Code of Laws §63-17-3010 and §63-17-3935 to clean up erroneous cross references in order to ensure compliance with changes to the Uniform Interstate Family Support Act.

The Subcommittee also recommends the following revisions to the agency's internal operations:

- Institute annual mandatory staff training related to domestic violence; and
- Consider and implement, as appropriate, internal changes to track practices and performance measures relating to recruitment, licensure, and support services for foster families.

The Subcommittee notes the agency has a new director and executive management team. The Subcommittee agreed with this team's recommendations for internal improvements at the agency which are listed below. The Subcommittee acknowledges that it will take time to accomplish these improvements, but has included deadlines for them which were proposed by the agency. The Subcommittee will follow up with the agency next year via a Request for Information, to check the status of these improvements and hold the agency accountable to its plan.

- Examine operational units for elimination, duplication, and streamlining of functions;
- Examine specific functions of the agency to determine if they best fit within the agency's core mission;
- Examine the need to reduce the size of administrative functions;
- Merge all administrative functions into one division;
- Examine the agency's over-reliance on contracting core services to external providers;
- Align supervision of county operations with regional structure; and
- Standardize the regional structure for Economic Services and Human Services.

Eliminate

The Subcommittee did not recommend elimination of any laws or programs relating to the agency.

Additional Information of Interest

This Subcommittee Study includes information of interest relating to the agency, which are not recommendations of the Subcommittee. The Subcommittee notes it did not adopt the Department of Social Services' recommendation to create Local Child Fatality Review Committees. Information about this recommendations from the agency is included in the agency's Restructuring and Seven-Year Plan Report, which is available online.

DETAILS - STUDY PROCESS

House Oversight Committee's Actions

On January 7, 2015, the House Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.² The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.³ The Department of Social Services is an agency subject to legislative oversight.⁴ The **Committee approved the Department of Social Services ("agency") as the fourth state agency to be studied** on February 5, 2015.⁵

The **Committee notified the agency** about the study on February 10, 2015. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

Subcommittee Studying the Agency

The **Healthcare Subcommittee ("Subcommittee") of the House Oversight Committee is studying the agency**. The chair of the Subcommittee is the Honorable Nathan Ballentine; other members include: the Honorable Mia McLeod, the Honorable Walton McLeod, and the Honorable Bill Taylor.⁶ The Honorable Mia McLeod also serves on the Joint Citizens and Legislative Committee on Children.

Meetings with the Agency

The **Subcommittee has met with the agency on seven occasions**. State Director Susan Alford, ("agency head") provided the Subcommittee with a brief overview of the agency during an introductory meeting on March 17, 2015.⁷ On May 7, 2015, the Subcommittee met with the agency to discuss the scope of the study.⁸ On November 9, 2015, the Subcommittee met with the agency and began going through the Committee Staff Study and agency recommendations.⁹ The Subcommittee met with the agency on November 23, 2015 to gain a better understanding of the agency's recommended changes to the law.¹⁰ There was an opportunity for public input during the January 6, 2016 meeting.¹¹ The Subcommittee met with the agency on February 3, 2016 and February 11, 2016 to inquire about specific programs and formulate recommendations.¹²¹³

Information from the Public

Members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the subcommittee. From May 1, 2015, until May 31, 2015, the Subcommittee posted an **online survey to solicit comments from the public about the Department of Social Services and other agencies**. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. There were 1,788 responses to the survey, with at least one response coming from each of the 46 South Carolina counties.¹⁴ These comments are not considered testimony.¹⁵ As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."¹⁶ The **public was informed they could continue to submit written comments**

about agencies online after the public survey closed.¹⁷ All meetings were open to the public and streamed live online; the videos are archived. **During the January 6, 2016 meeting the Subcommittee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.**

Information from the Agency

The **Committee asked the agency to conduct a self-analysis** by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report. The agency submitted its Restructuring Report and Seven-Year Plan, which were combined into a single report this year, on April 30, 2015.¹⁸ The agency reported spending 450 hours to complete the combined report.¹⁹ The agency submitted its Program Evaluation Report on May 22, 2015.²⁰ Both reports are available online. Pursuant to Committee Standard Practices, the agency asked for and received permission to amend its reports. Committee staff provided the agency the draft committee staff study on September 25, 2015 and the final staff study on October 21, 2015. The agency had ten business days to provide a response, if it wanted to provide a response. The agency provided a response on August 4. The committee staff study with the agency response is available online, and House Members were notified about the staff study with the agency response on December 4, 2015.

Next Steps

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statements, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During the full committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available.

When the full committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study. The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy.

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

DETAILS - RECOMMENDATIONS

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency’s self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to the Staff Study, Program Evaluation Report, Accountability Report, Restructuring Report and videos of meeting with the agency can all be found on the Committee’s website.

Continue

The Subcommittee recommends the agency continue all programs. Additionally, the Subcommittee recommends continuation of laws relating to the agency which are not listed under Revise or Eliminate below.

Revise

The Subcommittee recommends the following revisions to the agency’s internal operations:

- Institute annual mandatory staff training related to domestic violence; and
- Consider and implement, as appropriate, internal changes to track practices and performance measures relating to recruitment, licensure, and support services for foster families.

The Subcommittee recommends revisions to laws relating to the agency. The laws, and specific revisions recommended, along with the basis for the recommendation, are listed below.

Child Support Guidelines

Code Section	South Carolina Code § 43-5-220
Justification	Federal law requires the use of Child Support Guidelines in establishing child support orders. While South Carolina Code §43-5-580 and §63-17-470 are consistent with the federal requirements, section 43-5-220 makes the use of the guidelines "optional," in violation of federal law. The requested change is necessary in order to bring South Carolina statutes into compliance with federal requirements.
Suggested Language	SECTION 43-5-220. Obtaining support payments from absent parents; amount; proceedings. (a) Every applicant for family independence benefits who has a child by a parent who is alive but not living in the home at the time of approval for family independence

must be immediately referred to the designated child support official of the department. The department shall be responsible for taking all steps necessary to identify, locate, and obtain support payments from absent parents.

(b) The department shall establish **a scale of mandatory child support guidelines** ~~a scale of suggested minimum contributions~~ to assist courts in determining the amount that an absent parent should be expected to pay toward the support of a dependent child. The scale shall include consideration of gross income, shall authorize expense deductions including deductions for taxes for determining net income, shall designate other available resources to be considered and shall specify the circumstances which should be considered in reducing liability on the basis of hardship. Copies of this scale shall be made available to courts, county attorneys, circuit solicitors, and to the public. ~~It is intended that the~~ **The scale formulated pursuant to this section shall be mandatory for usage by all courts pursuant to the provisions of sections 43-5-580 and 63-17-470** ~~be optional, and that no court or support official be required to use it.~~

(c) In all cases in which the whereabouts of the absent parent is known, the department shall, immediately upon approval of the application for assistance, notify the absent parent of the filing of the application and of his responsibility to complete and return a written statement of his current monthly income, his total income over the past twelve months, a description of real and personal property owned by him, together with an estimate of its value, the number of dependents for whom he is providing support, the amount he is contributing regularly toward the support of all children for whom application for aid to families with dependent children has been made, his Social Security number, his itemized monthly living expenses and such other information as the department determines to be pertinent in determining his ability to support his children.

The absent parent shall complete and return such statement to the department within ten days after notification by the department. The department may request the absent parent to report for a personal interview.

If the absent parent statement is not completed within ten days after notification, the department shall cause prompt personal service to be made. If the written statement is not completed and returned within ten days after personal service, the department shall immediately refer the matter for prosecution for nonsupport.

(d) When the department has obtained sufficient information concerning the absent parent, it shall immediately determine his ability to support his children and shall obtain a court order specifying an appropriate amount of support in accordance with the **child support guidelines** ~~scale of suggested minimum contributions~~ as provided in subsection (b). If the absent parent is residing out of the county, but within the State, and his whereabouts are known, the department shall obtain the court order in the court of competent jurisdiction as set forth in Section 14-21-830. Court orders of support shall in all cases specify that the payment of support shall be made directly to the department as reimbursement for assistance and not to the spouse of the absent parent. The support rights assigned to the State shall constitute an

obligation owed to the State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable state and local processes. The amount of such obligations shall be:

(1) The amount specified in a court order which covers the assigned support rights;

(2) If there is no court order, an amount determined by the State in accordance with **the child support guidelines** ~~a formula approved~~ by subsection (b);

(3) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation. A debt which is a child support obligation assigned to the department under this section is not released by a discharge in bankruptcy under the Bankruptcy Act.

(e) Failure of the absent parent to comply with his support obligation shall be referred to the court having jurisdiction of the matter for appropriate proceedings.

(f) Nothing in this section shall be construed to relieve the department from complying with the provisions of Section 402 (a) (11) of the Social Security Act.

(g) Material falsification of information on the statement provided pursuant to Subsection (d) shall constitute a misdemeanor.

(h) In the case of an individual not otherwise eligible for collection services, a fee may be imposed in accordance with federal law, regulations, and guidelines.

(i) The department may submit to the Department of Revenue for collection and set off any debt for past-due support, including health care expenses, owed to the department or owed to an individual not otherwise eligible for collection services who has made application to the department. The debt for past-due support must be at least sixty days in arrears and is in excess of twenty-five dollars as provided in Section 12-7-2240. At the time of the submission, the department shall notify the debtor that his state tax refund will be subject to a debt for past-due support. The notice shall set forth the name of the debtor, the amount of the claimed debt, the intention to set off the refund against the debt, the taxpayer's opportunity to give written notice to contest the set off within thirty days of the date of mailing of the notice, the appropriate office of the department to which the application for a hearing must be sent, and the fact that failure to apply for a hearing in writing within the thirty-day period will be considered a waiver of the opportunity to contest the set off. If the debtor makes written application to contest the set off within thirty days of notification, the department shall provide an opportunity for a hearing and is responsible for refunding any monies wrongfully collected. If no application is made, the debtor's refund must be used to set off the amount owed. From the amount transferred from the Department of Revenue, the department shall reimburse the Department of Revenue for expenses incurred in administering this program. In the case of an individual not otherwise eligible for collection services, a fee must be imposed by the department to cover all costs. The department shall request that the

	<p>Department of Revenue send to the department notice of the home address, corrected social security number, or additional Social Security numbers, if more than one is used, of any taxpayer whose name is submitted to the Department of Revenue under this subsection.</p> <p>(j) The department may submit to the Internal Revenue Service and the State Department of Revenue, for federal and state tax refund offsets, the name of any obligor who is delinquent in paying court-ordered child support and who qualifies for submittal under federal or state law even if the obligor is in compliance with a court order requiring periodic payments toward satisfaction of the delinquency or even if the delinquent amount has been placed in abeyance by court order.</p>
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Employer New Hire Reporting Program

Code Section	South Carolina Code § 63-17-1210
Justification	<p>The reporting of newly hired employees assists the Child Support Services Division in seeking wage withholding orders for child support. Federal law requires employers to report new hires to the state’s New Hire Reporting Program. While SC Code § 43-5-598 reflects the mandatory reporting requirement, § 63-17-1210 currently states that an employer may voluntarily participate in the program. This is in violation of federal statutory requirements. The section could either be amended or deleted, as SC Code § 43-5-598 fully addresses the New Hire Reporting Program.</p>
Suggested Language	<p>If amendment is preferable:</p> <p>SECTION 63-17-1210. Employer new hire program.</p> <p>(A) By January 1, 1996, the Child Support Services Division of the Department of Social Services shall create and develop an Employer New Hire Reporting program. The Employer New Hire Reporting program shall provide a means for employers to voluntarily assist in the state's efforts to locate absent parents who owe child support and collect child support from those parents by reporting information concerning newly hired and rehired employees directly to the division.</p> <p>(B) The following provisions apply to the Employer New Hire Reporting program:</p> <p>(1) An employer doing business in this State must may participate in the Employer New Hire Reporting program by reporting to the Child Support Services Division:</p> <p>(a) the hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; or</p> <p>(b) the rehiring or return to work of an employee who was laid off, furloughed, separated, granted leave without pay, or terminated from employment.</p> <p>(2) The Employer New Hire Reporting program applies to a person who is expected to:</p>

- (a) be employed for more than one month's duration;
 - (b) be paid for more than three hundred fifty hours during a continuous six-month period; or
 - (c) have gross earnings of more than three hundred dollars in each month of employment.
- (3) An employer who ~~voluntarily~~ reports under item (1) shall submit monthly reports regarding each hiring, rehiring, or return to work of an employee during the preceding month. The report must contain:
- (a) the employee's name, address, social security number, date of birth, and salary information; and
 - (b) the date services for remuneration were first performed by the employee; and**
 - (c) the employer's name, address, **and the identifying number assigned to the employer under section 6109 of the Internal Revenue Code of 1986.**
- (4) Employers reporting to the Employer New Hire Reporting program shall provide information to the **Child Support Services Division** by:
- (a) sending a copy of the new employee's W-4 form;
 - (b) completing a form supplied by the **Child Support Services Division**; or
 - (c) any other means authorized by the **Child Support Services Division** for conveying the required information, including electronic transmission or magnetic tapes in compatible formats.
- (5) An employer is authorized by this section to disclose the information described in item (3) and is not liable to the employee for the disclosure or subsequent use by the **Child Support Services Division** of the information.
- (6) Information received by the South Carolina Employment Security Commission from employers which includes information contained in the reports provided for in this section must be transmitted to the Department of Social Services within fifteen working days after the end of each quarter.

Financial Institution Data Match Program

Code Section	South Carolina Code § 63-17-2310 <i>et seq</i>
Justification	In order to correctly represent the name of the Financial Institution Data Match (FIDM) program operated by the division pursuant to federal mandate, the title of the current article, "Child Support Enforcement Through Data Financial Institution Matches," should be changed to read "Child Support Enforcement Through Financial Institution Data Matches." Certain wording contained in the FIDM should be revised to identify all of the entities that are required to comply with the South Carolina FIDM statutes, clarify the compliance responsibilities of those entities in response to enforcement requests initiated by the Child Support Services Division, and provide for potential sanctions for failure or refusal to comply.
Suggested Language	<p>SECTION 63-17-2310. Information to be provided by government and private entities from governmental agencies.</p> <p>(A) The Child Support Services Division of the Department of Social Services shall attempt to locate individuals for the purposes of establishing paternity or establishing, modifying, or enforcing a child support obligation. Notwithstanding any other provision of law making this information confidential, the following entities in the State shall provide promptly to the division department, its designee, or a federally-approved child support agency of another state, the following information, upon request by the division department or other agency for the purpose of establishing paternity or establishing, modifying, or enforcing a support obligation:</p> <p>(1) All entities in the State including, but not limited to, for-profit, nonprofit and governmental employers, and labor organizations shall provide the full name, social security number, or the alien identification number assigned to a resident alien who does not have a social security number, date of birth, home address, wages or salary, existing or available medical, hospital, and dental insurance coverage, and number of dependents listed for tax purposes on all employees, contractors, and members of labor organizations.</p> <p>(2) All utility companies, including wire and nonwire telecommunication companies, cable television companies, and financial institutions shall provide the full name, social security number, or the alien identification number assigned to a resident alien who does not have a social security number, date of birth, home address, telephone number, account numbers, and other identifying data, including information on assets and liabilities, on all persons who maintain an account with that entity or for whom the entity is in possession or control of property, tangible or intangible, whether real or personal, or an interest in property, whether legal or equitable, which is subject to payment, disbursement or other method of transfer, by the entity to such person. For purposes of this item, a financial institution is defined as a federal, state, commercial, or savings bank, savings and loan association, cooperative bank, federal, or state chartered credit union, benefit association, insurance company, safe deposit company, money market mutual fund, or investment company doing business in this State.</p>

(3) A state or local agency of this State shall provide access to information contained in these records:

(a) vital statistics;

(b) state and local tax and revenue records;

(c) records concerning real and titled property;

(d) records of occupational and professional licenses;

(e) records concerning the ownership and control of corporations, partnerships, and other business entities;

(f) employment security records;

(g) records of agencies administering public assistance programs;

(h) records of motor vehicle departments; and

(i) corrections records.

A state or local agency, board, or commission which provides this information to the **division** ~~department~~ may not charge the **division** ~~department~~ a fee for providing the information; however, a commission that receives federal grants, the use of which are restricted, may charge a fee for providing the information.

(B) An entity that provides information pursuant to this section in good faith reliance upon certification by the **division** ~~department~~ that the information is needed to establish paternity or to establish, modify, or enforce a support obligation is not liable for damages resulting from the disclosure.

(C) An entity that fails to provide the requested information within thirty days of the request may be subject to a civil penalty of one hundred dollars for each occurrence. Fines imposed pursuant to this subsection must be enforced as provided for in Section 63-3-530(43) and distributed according to Section 63-17-520. **The failure or refusal of an entity, upon request of the division, to provide the requested information shall also subject the entity to the contempt power of the family court, as provided in Section 63-3-530.**

SECTION 63-17-2320. Information from financial institutions.

(A) In the manner and form prescribed by the **Child Support Services Division of the Department of Social Services**, a financial institution, as defined in Section 63-17-2310(A)(2), on a quarterly basis, shall provide the division or its designee information on account holders for use in the establishment, enforcement, and collection of child support obligations including, but not limited to:

<p>(1) full name;</p> <p>(2) social security number or taxpayer identification number, or the alien identification number assigned to a resident alien who does not have a social security number;</p> <p>(3) record address;</p> <p>(4) account numbers; and</p> <p>(5) information on assets and liabilities.</p> <p>(B) Utilizing automated data exchanges to the maximum extent feasible, a financial institution shall provide for each calendar quarter the name, address, social security number, or the alien identification number assigned to a resident alien who does not have a social security number, and other identifying information for each noncustodial parent who maintains an account at the institution and who owes past-due support, as identified by the division by name and social security number, or the alien identification number assigned to a resident alien who does not have a social security number.</p> <p>(C) In response to a notice of lien or levy provided by the division, a financial institution must shall encumber or surrender, as directed by the division the case may be, assets held by the institution on behalf of a noncustodial parent who is subject to a child support lien. Issuance of a notice of lien or levy to a financial institution by the division shall be deemed to constitute conclusive evidence of the validity of the underlying lien and a financial institution shall not refuse to encumber assets in response to the notice of lien or refuse to surrender assets in response to a notice of levy provided by the division. Notwithstanding any other provision of federal or state law, the financial institution is not liable to any person, organization or entity for encumbering or surrendering assets of a noncustodial parent in response to a notice of lien or levy by the division. The failure or refusal of a financial institution, in response to a notice of lien or levy by the division, to encumber or surrender the assets held by the financial institution on behalf of the noncustodial parent who is subject to a child support lien, shall subject the financial institution to the contempt power of the family court, as provided in Section 63-3-530.</p> <p>(D) The division department shall pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual costs incurred by the financial institution.</p> <p>(E) This section remains in effect until the federal mandate requiring the operation of a financial institution data match program is repealed.</p>
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Child Support Liens

Code Section	South Carolina Code § 63-17-2710 <i>et seq</i>
Justification	The changes resolve ambiguities in the statutes that hinder the agency's ability to attach assets of child support obligors in the possession of financial institutions or to obtain information to be used in the location of the assets of child support obligors.
Suggested Language	<p>SECTION 63-17-2710. Child support arrearage liens.</p> <p>A child support obligation which is unpaid in an amount equal to or greater than one thousand dollars, as of the date on which it was due, is a lien in favor of the obligee in an amount sufficient to satisfy unpaid child support, whether the amount due is a fixed sum or is accruing periodically. An amount of restitution established by the Department of Social Services, Child Support Services Division, or its designee (division) or the family court is due and payable as of the date the amount is established. The lien shall incorporate any unpaid child support which may accrue in the future and does not terminate except as provided in Section 63-17-2730. Upon perfection, recordation or registration in accordance with Section 63-17-2730, the lien shall encumber all tangible and intangible property, whether real or personal, and an interest in property, whether legal or equitable, belonging to the obligor. An interest in property acquired by the obligor after the child support lien arises is subject to the lien, subject to the limitations provided in Section 63-17-2730.</p> <p>SECTION 63-17-2720. Written notice to obligor; administrative review.</p> <p>When the division determines that child support is unpaid in an amount equal to or greater than one thousand dollars, it shall send written notice of the existence of a child support arrearage lien, pursuant to Section 63-17-2710, to the obligor by first-class mail to the obligor's last known address, as filed with the tribunal pursuant to Section 63-17-450. The notice shall advise the obligor of the existence of the lien, specify the amount unpaid as of the date of the notice or other date certain and inform the obligor of the right of the obligor to request an administrative review in order to contest the existence of the lien or the amount of unpaid support by filing a written request with the division within thirty days of the date of the notice. If the obligor files a timely written request for an administrative review, the division shall hold in abeyance any action to levy on the assets of the obligor subject to the child support arrearage lien created pursuant to Section 63-17-2710 and shall conduct the administrative review within thirty days of receiving the request. If the obligor fails to file a timely written request for administrative review, the division may proceed to levy on all property of the obligor, to include property held by financial institutions, subject to the limitations provided in Section 63-17-2740.</p> <p>SECTION 63-17-2730. Notice of a lien, filing, expiration.</p> <p>(A)(1) The division shall file notice of a lien with respect to real property with the register of deeds for any county in the State where the obligor owns property. The social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of the obligor must be noted on</p>

the notice of the lien. The filing operates to perfect a lien when recorded, as to any interest in real property owned by the obligor that is located in the county where the lien is recorded. Liens created under this section must be maintained by the register of deeds of each county of the State, in accordance with established local procedures for recordation. If the obligor subsequently acquires an interest in real property, the lien is perfected upon the recording of the instrument by which the interest is obtained in the register of deeds where the notice of the lien was filed within six years prior thereto. A child support lien is perfected as to real property when both the notice thereof and a deed or other instrument in the name of the obligor are on file in the register of deeds for the county where the obligor owns property without respect to whether the lien or the deed or other instrument was recorded first.

(2) The division also shall file notice of a child support lien, with the social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of the obligor on the notice, with respect to personal property with the Department of Natural Resources, a county, or other office or agency responsible for the filing or recording of liens. The filing of a notice of a lien or of a waiver or release of a lien must be received and registered or recorded without payment of a fee. The division may file notice of a lien or waiver or release of a lien or may transmit information to or receive information from any registry of deeds or other office or agency responsible for the filing or recording of liens by any means, including electronic means. Any lien placed against a vehicle with a title issued by the Department of Motor Vehicles is not perfected until notation of the lien is recorded on the vehicle's title by the Department of Motor Vehicles. No fee is required to reissue this title. **A lien against any other personal property of the obligor, held by the obligor or by another person, organization, or financial institution, whether tangible or intangible, or against any interest in property, whether legal or equitable, belonging to the obligor, held by the obligor or by another person, organization, or financial institution, which property or interest in property is not subject to filing or registration with the Department of Natural Resources, the Department of Motor Vehicles or with a county or other office or agency responsible for the filing or recording of liens, is considered to be perfected upon the division's mailing to the obligor the notice required by Section 63-17-2720. No other action is required to be performed by the division with respect to such other personal property in order to perfect the lien.** The perfected lien is not subordinate to a recorded lien except a lien that has been perfected before the date on which the child support lien was perfected. The division, upon request of the obligor, may subordinate the child support lien to a subsequently perfected mortgage. To assist in the collection of a debt by the division, the division may disclose the name of an obligor against whom a lien has arisen and other identifying information including the existence of the lien and the amount of the outstanding obligation.

(B) The lien expires upon termination of a current child support obligation and payment in full of unpaid child support or upon release of the lien by the division. In any event, a lien under this section expires six years from the date on which the lien was first perfected. The lien may be extended for additional periods of six years each

by recording, during the fifth year of the lien, a further notice of the lien, as provided in subsection (A), without affecting the priority of the lien. Expiration of the lien does not terminate the underlying order or judgment of child support. The division may issue a full or partial waiver of a lien imposed under this section. The waiver or release is conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

SECTION 63-17-2740. Levy upon property; refusal to surrender; discharge of obligation.

(A) If an obligor against whom a lien has arisen and has been perfected under Section 63-17-2730 neglects or refuses to pay the sum due after the expiration of the thirty-day notice period specified in Section 63-17-2720, the division may collect the unpaid child support and levy upon all property as provided in this section. For the purposes of this section, "levy" includes the power of distraint and seizure by any means. A person, **organization, or financial institution**, in possession of property upon which a lien having priority under Section 63-17-2730 has been perfected, upon demand, shall surrender the property to the division as pursuant to this section. Financial institutions which hold assets of an obligor, after proper identification and notification by the division, shall encumber or surrender deposits, credits, or other personal property held by the institution on behalf of an obligor who is subject to a child support lien, **as directed by the division**, pursuant to Section 63-17-2320. Financial institutions are allowed to either submit account information directly to the State where it is matched against the parent data base, or financial institutions may request a file and complete the comparison and submit it directly to the State. The social security number must be used for the matching process and not the full name of the person who maintains an account with that entity. A levy on property held by an organization with respect to a life insurance or endowment contract, without necessity for the surrender of the contract document, constitutes a demand by the division for payment of the amount of the lien and the exercise of the right of the obligor to the advance of the amount. The organization shall pay the amount ninety days after service of the notice of levy. The levy is considered satisfied if the organization pays over to the division the full amount which the obligor could have had advanced to him, if the amount does not exceed the amount of the lien. Whenever any property upon which levy has been made is not sufficient to satisfy the claim of the state for which levy is made, the division thereafter, as often as may be necessary, proceed to levy, without further notice, upon any other property of the obligor subject to levy upon first perfecting its lien as provided in Section 63-17-2730, until the amount due from the obligor and the expenses are fully paid. With respect to a seizure or levy of real property or tangible personal property, **which is subject to filing or registration with either the Department of Natural Resources, the Department of Motor Vehicles or with a county or other office or agency responsible for the filing or recording of liens**, the sheriff shall proceed in the manner prescribed by Sections 15-39-610, et seq., insofar as these sections are not inconsistent with this article. The division has rights to property remaining after satisfying superior perfected liens, as provided in Section 63-17-2730.

	<p>(B) Upon demand by the division, a person, organization, or financial institution which who fails or refuses to surrender property subject to levy pursuant to this section is liable in his own person and estate to the State in a sum equal to the value of the property not so surrendered but not exceeding the amount of the lien, and the costs at the rate established by Section 23-19-10. The failure or refusal of a person, organization, or financial institution, upon demand of the division to encumber or surrender property of an obligor subject to a child support arrearage lien, pursuant to Section 63-17-2710, shall also subject the person, organization, or financial institution to the contempt power of the family court, as provided in Section 63-3-530.</p> <p>(C) A person in possession of, or obligated with respect to, property who, upon demand by the division, encumbers or surrenders the property or discharges the obligations to the division or who pays a liability under this article, must be discharged from any obligation or liability to the obligor arising from the surrender or payment. A levy on an organization with respect to a life insurance or endowment contract which is satisfied pursuant to this article, discharges the organization from any obligation or liability to any beneficiary arising from the surrender or payment.</p>
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Miscellaneous

Code Section	South Carolina Code § 63-17-3010 and § 63-17-3935
Justification	These are technical amendments to these sections to correct erroneous code cross references and to insert the words. These corrections will ensure compliance with changes to the Uniform Interstate Family Support Act (UIFSA) as required by policy of the federal Office of Child Support Enforcement (OCSE).
Agency Suggested Language	<p>In Section 63-17-3010(A)(2), the phrase "in a record" needs to be added after the word "consent." As amended, that section would then read:</p> <p>(A) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:</p> <ol style="list-style-type: none"> (1) the individual is personally served with notice and a summons within this State; (2) the individual submits to the jurisdiction of this State by consent in a record, by entering a general . . . <p>In Section 63-17-3010(B), the cross-reference to "or 63-17-3870" should be deleted. South Carolina added language requested by OCSE but did not delete a separate stand-alone cross-reference; with the result that there are now two references to the same provision. As amended, the section would read as follows:</p> <p>(B) The bases of personal jurisdiction set forth in subsection (A) or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of this State to modify a child-support order of another state unless the requirements of Section 63-17-3830 or 63-17-3870 are met, or in the case of a foreign support order, unless the requirements of Section 63-17-3870 are met.</p>

	<p>In Section 63-17-3810, the cross-reference to Subpart 1 is incorrect. As noted in OCSE's earlier comments, UIFSA cross-references to Section 601 through 608 of the Model Act. As codified by South Carolina, that would be Sections 63-17-3610, 63-17-3620, 63-17-3630, 63-17-3640, 63-17-3710, 63-17-3720, 63-17-3730, and 63-17-3740. Alternatively, the reference equates to Subparts 1 and 2. As amended, the statute would read:</p> <p>Section 63-17-3810. A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in this State in the same manner provided in subparts 1 and 2 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.</p> <p>In Section 63-17-3935(B), there is a missing cross-reference. The Model Act language in section 706 reads: (b) Notwithstanding Sections 311 and 602(a), a request for registration of a Convention support order must be accompanied by:</p> <p>SC's UIFSA language in 63-17-3935(B) is: (B) Notwithstanding Sections 63-17-3320 and 63-17-3620, a request for registration of a Convention support order must be accompanied by:</p> <p>The State should add the cross-reference to subsection (A) of 63-17-3620.</p> <p>Proposed Wording:</p> <p>(B) Notwithstanding Sections 63-17-3320 and 63-17-3620 (A), a request for registration of a Convention support order must be accompanied by:</p>
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The Subcommittee notes the agency has a new director and executive management team. The Subcommittee agreed with this team's recommendations for internal improvements at the agency which are listed below. The Subcommittee acknowledges that it will take time to accomplish these improvements, but has included deadlines for them which were proposed by the agency. The Subcommittee will follow up with the agency next year via a Request for Information, to check the status of these improvements and hold the agency accountable to its plan. The Subcommittee recommends the internal programmatic revisions below.

Programmatic Revision	Timeline for Implementation
Examine operational units for elimination, duplication, and streamlining of functions.	December 31, 2016 - Dependent on appropriated funds to support Director Alford hiring an Inspector General to perform the examination.
Examine specific functions of the agency to determine if they best fit within the agency's core mission.	Ongoing - For instance, the agency is in the process of transferring the operation of the Supplemental Nutrition Assistance Program

	(SNAP) to the Department of Employment and Workforce (DEW).
Examine the need to reduce the size of administrative functions.	Ongoing - The Governor has tasked all Cabinet agencies with examining administrative functions with an eye toward shifting personnel towards direct services.
Merge all administrative functions into one division.	May 2015 - Accomplished
Examine the agency's over-reliance on contracting core services to external providers.	Ongoing - Agency staff are focusing the examination on training and community based prevention services.
Align supervision of county operations with regional structure.	February 2016 - Accomplished
Standardize regional structure for Economic Services and Human Services.	December 31, 2017 - Director Alford recognizes the amount of time to effectively standardize the regional structures.

Eliminate

The Subcommittee does not recommend elimination of any laws or programs relating to the agency.

Follow Up

The Subcommittee will seek an update from the agency on the programmatic revisions in a Request for Information, at the beginning of the next calendar year.

ADDITIONAL INFORMATION OF INTEREST

The agency recommended modification or elimination of some laws on which the subcommittee did not vote to include as one of its recommendations. While the Subcommittee did not vote to include these changes as part of the its recommendations, the Subcommittee did want to include this information for the benefit of other House Members who may want to investigate these suggestions from the agency further.

Local Child Fatality Review Committees

Code Section	South Carolina Code, Title 63, Chapter 11
Explanation	Amend Chapter 11 so as to authorize the creation of Local Child Fatality Review Committees in order to allow for the rapid and expeditious review of reported child fatalities which come within the investigative authority of the Department of Social Services.

SELECTED AGENCY INFORMATION

SC Department of Social Services. “Program Evaluation Report, 2015.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DSS%20Program%20Evaulation%20Report%20Complete%20RevOctober262015.PDF> (accessed February 5, 2016).

SC Department of Social Services. “Restructuring and Seven-Year Plan Report, 2015.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Social%20Services.pdf> (accessed February 5, 2016)

SC House of Representatives, Legislative Oversight Committee. “May 2015 Survey Results.”

[http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20\(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ\).pdf](http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ).pdf) (accessed July 6, 2015).

SC House of Representatives, Legislative Oversight Committee. “October 21, 2015 Staff Study of the South Carolina Department of Social Services.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015StaffStudyAndAgencyResponse/DSS%20Staff%20Study%20and%20Agency%20Response%20Revised.pdf> (accessed February 5, 2016)

ENDNOTES

¹ *SC Code of Laws*, sec. 2-2-20(C).

² SC House of Representatives, House Legislative Oversight Committee, “January 7, 2015 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January072015.pdf> (accessed February 9, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

³ The committee’s recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee’s website under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed February 9, 2016)

⁴ *SC Code of Laws*, sec. 2-2-10(1).

⁵ SC House of Representatives, House Legislative Oversight Committee, “February 5, 2015 Full Committee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,” <http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/February052015.pdf> (accessed August 5, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁶ SC House of Representatives, House Legislative Oversight Committee, “Subcommittees -2016,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed February 9, 2016).

⁷ SC House of Representatives, House Legislative Oversight Committee, “March 17, 2015 Healthcare Subcommittee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Subcommittee Minutes” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/March172015Minutes.pdf> (accessed February 9, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁸ SC House of Representatives, House Legislative Oversight Committee, “May 7, 2015 Healthcare Subcommittee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Subcommittee Minutes” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/May72015Minutes.pdf>. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁹ SC House of Representatives, House Legislative Oversight Committee, “November 9, 2015 Healthcare Subcommittee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Subcommittee Minutes” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/November092015Minutes.pdf>. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹⁰ SC House of Representatives, House Legislative Oversight Committee, “November 23, 2015 Healthcare Subcommittee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Subcommittee Minutes” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/November232015Minutes.pdf>. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>

¹¹ SC House of Representatives, House Legislative Oversight Committee, “January 6, 2016 Healthcare Subcommittee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Subcommittee Minutes” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/January062016Minutes.pdf> (accessed February 9, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>

¹² Hold for posting

¹³ Hold for posting

¹⁴ SC House of Representatives, House Legislative Oversight Committee, “May 2015 Survey Results,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Department of Social Services” [http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20\(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ\).pdf](http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ).pdf), unnumbered page 1 and 133-135, (accessed February 9, 2016).

¹⁵ Standard practice 10.4.

¹⁶ SC House of Representatives, House Legislative Oversight Committee, “May 2015 Public Survey.” The survey is closed. The survey sought comments from the public about the Comptroller General’s Office; Department of Transportation; Department of Social Services; Department of Juvenile Justice; and First Steps to School Readiness. The 1,788 responses is inclusive of responses for all five agencies.

¹⁷ SC House of Representatives, House Legislative Oversight Committee, “Provide Input About Agencies,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee.”

¹⁸ SC Department of Social Services, *Restructuring and Seven-Year Plan Report*. <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Social%20Services.pdf> (accessed February 9, 2016)

¹⁹ *Ibid.*, 114.

²⁰ SC Department of Social Services, *Program Evaluation Report*. <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DSS%20Program%20Evaluation%20Report%20Complete%20RevOctober262015.PDF> (accessed February 9, 2016).

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