**South Carolina General Assembly**

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**H. 3104**

**STATUS INFORMATION**

General Bill

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

Summary: Department of Social Services

**HISTORY OF LEGISLATIVE ACTIONS**

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12/11/2014 House Referred to Committee on **Judiciary**

1/13/2015 House Introduced and read first time ([House Journal‑page 97](file:///h:\HJ%20Archive\2015\01-13-15.docx))

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**VERSIONS OF THIS BILL**

[12/11/2014](file:///p:\pprever\2015-16\3104_20141211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑7‑693 SO AS TO REQUIRE A SAFETY PLAN TO PLACE A CHILD IN THE HOME OF A RELATIVE OR OTHER PERSON INSTEAD OF THE DEPARTMENT OF SOCIAL SERVICES TAKING CUSTODY OF THE CHILD AND PROVIDE FOR ITS REQUIREMENTS AND TO LIMIT THE EFFECTIVE DATES OF A SAFETY PLAN TO NINETY DAYS AFTER ITS EXECUTION, AT WHICH TIME THE DEPARTMENT SHALL RETURN THE CHILD TO THE HOME, FILE A REMOVAL ACTION, OR EXECUTE A TREATMENT PLAN, AS APPROPRIATE; BY ADDING SECTION 63‑7‑696 SO AS TO REQUIRE A TREATMENT PLAN BEFORE A CHILD MAY REMAIN IN THE HOME OF, OR BE PLACED WITH, A RELATIVE OR OTHER PERSON AFTER EXPIRATION OF A SAFETY PLAN INSTEAD OF THE DEPARTMENT TAKING CUSTODY OF THE CHILD AND PROVIDE FOR ITS REQUIREMENTS AND TO LIMIT THE EFFECTIVE DATES OF A TREATMENT PLAN TO NINETY DAYS AFTER ITS EXECUTION, AT WHICH TIME THE DEPARTMENT SHALL RETURN THE CHILD TO THE HOME OR FILE A REMOVAL ACTION, AS APPROPRIATE; TO AMEND SECTION 63‑7‑650, RELATING TO REQUIREMENTS BEFORE PLACING A CHILD WITH A RELATIVE OR OTHER PERSON WHEN THE CHILD IS TAKEN INTO EMERGENCY PROTECTIVE CUSTODY, SO AS TO FURTHER PROVIDE FOR REQUIREMENTS TO CONDUCT AN INTERVIEW AND A HOME VISIT; AND TO AMEND SECTION 63‑7‑690, RELATING TO PLACEMENT OF A CHILD WITH A RELATIVE OR OTHER PERSON INSTEAD OF TAKING THE CHILD INTO THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES, SO AS TO REQUIRE THE DEPARTMENT TO INTERVIEW THE RELATIVE OR OTHER PERSON, CONDUCT A HOME VISIT, AND OBTAIN A CRIMINAL BACKGROUND CHECK BEFORE PLACING THE CHILD WITH THE RELATIVE OR OTHER PERSON, AND TO REQUIRE THE PARENT OR GUARDIAN, THE RELATIVE OR OTHER PERSON, AND THE DEPARTMENT TO EXECUTE A SAFETY PLAN BEFORE MAKING THE PLACEMENT.

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

SECTION 1. Subarticle 3, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Section 63‑7‑693. (A)(1) Before a child is placed with a relative or other person pursuant to Section 63‑7‑690, the parent or guardian, the relative or other person, and the department shall execute a safety plan, which sets forth the safety concerns, the actions required of the parent or guardian for return of the child to the home, the actions required of the relative or other person to protect the child’s safety, and the actions required of the department to monitor the child’s safety.

(2) While a child is living with a relative or other person pursuant to Section 63‑7‑690, the department weekly shall monitor compliance with the safety plan by all individuals, or more frequently as appropriate.

(3) The department continually shall assess the safety plan’s appropriateness to address the immediate concerns for the safety of the child and change the requirements of the plan as appropriate.

(B) A safety plan is not effective longer than ninety days, at which time the department shall:

(1) return the child to the home if return of the child would not cause an unreasonable risk of harm to the child’s physical health, safety, and well‑being;

(2) file a removal action pursuant to Section 63‑7‑1660, if there is an unreasonable risk of harm to the child if returned to the home, and hold a probable cause hearing no later than ten days after filing the action; or

(3) execute a treatment plan pursuant to Section 63‑7‑696, as part of which the child remains with the relative or other person, or is placed with another relative or person, if there is an unreasonable risk of harm to the child if returned to the home and instead of the department taking custody of the child.

Section 63‑7‑696. (A) If the department decides to allow a child, who is residing with a relative or other person as part of a safety plan, executed pursuant to Section 63‑7‑693, to continue to reside with that relative or other person, or with another relative or person, when the safety plan expires, instead of returning the child to the home, the department shall prepare a treatment plan that must be signed by the parent or guardian, the relative or other person, and the department. The treatment plan must set forth the safety and treatment concerns, the actions required of the parent or guardian for return of the child to the home, the actions required of the relative or other person in order to protect the child’s safety and well‑being, and the actions required of the department to monitor the child’s safety and the parent’s or guardian’s and the relative’s or other person’s compliance with the requirements of treatment plan.

(B)(1) If the department places the child with a relative or other person who was not the relative or other person with whom the child was placed as part of the safety plan, the department and the relative or other person shall comply with Section 63‑7‑650 before placement of the child pursuant to this section.

(2) The relative or other person with whom the child is placed pursuant to this section shall agree as part of the treatment plan to no later than thirty days after execution of the plan comply with standards required of licensed foster parents pertaining to, at a minimum:

(a) preservice training;

(b) criminal and child abuse and neglect history background checks;

(c) home safety inspections by the State Fire Marshal and health authorities;

(d) medical reports; and

(e) references.

(3) The department as soon as executing the treatment plan shall:

(a) facilitate processes to assist the relative or other person to meet the requirements of item (2);

(b) assess the relative’s or other person’s need for supportive services to care for the child during the effective dates of the treatment plan; and

(c) facilitate access to the supportive services.

(C) The department shall monitor the placement of a child pursuant to a treatment plan at least as frequently as it monitors a foster care placement. The department continually shall:

(1) assess the treatment plan for its appropriateness to address the department’s concerns that led to placement of the child with the relative or other person and modify the treatment plan as needed; and

(2) determine whether the parent or guardian, relative or other person, and the department are adhering to the terms of the treatment plan.

(D) A treatment plan executed pursuant to this section must be executed before the safety plan’s expiration date and is effective no longer than ninety days after execution at which time the department shall:

(1) return the child to the home if return of the child would not cause an unreasonable risk of harm to the child’s physical health, safety, and well‑being; or

(2) file a removal action pursuant to Section 63‑7‑1660, if there is an unreasonable risk of harm to the child if returned to the home, and hold a probable cause hearing no later than ten days after filing the action.”

SECTION 2. Section 63‑7‑650 of the 1976 Code is amended to read:

“Section 63‑7‑650. (A) Before agreeing to or acquiescing in a corrective action that involves placement of the child with a relative or other person or making an interim placement with a relative or other person while retaining custody of the child or as soon as possible after agreeing to or acquiescing in a corrective action, the department shall:

(1) interview the relative or other person to determine his willingness, fitness, and suitability to serve as a placement;

(2) visit the home to ensure that the placement is safe and appropriate for the needs of the child;

(3) secure from the relative or other person and other adults in the home an affidavit attesting to information necessary to determine whether a criminal history or history of child abuse or neglect exists and whether this history indicates there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person~~.~~; and

(4) as soon as possible, ~~the department shall~~ confirm the information supplied in the affidavit by checking the Central Registry of Child Abuse and Neglect, other relevant department records, county sex offender registries, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the relative or other person resides and, to the extent reasonably possible, jurisdictions in which the relative or other person has resided during that period.

(B) The department must not agree to or acquiesce in a placement if the interview, home visit, affidavit, or ~~these~~ records obtained pursuant to subsection (A)(4) reveal information indicating there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. The relative or other person ~~must~~ shall consent to a background check ~~of the above records~~ by the department as provided for in subsection (A)(4).”

SECTION 3. Section 63‑7‑690 of the 1976 Code is amended to read:

“Section 63‑7‑690. (A) The department may place the child with a relative or other person instead of taking legal custody of the child if within the twenty‑four hours following removal of the child:

(1) the department has identified a specified relative or other person with whom it has determined that the child is to be placed ~~instead of the department’s taking legal custody of the child~~; ~~and~~

(2) the department and the relative or other person have complied with the requirements of Section 63‑7‑650; and

(3) ~~both~~ the relative or other person with whom the child is to be placed and the child’s parent or guardian have agreed to the placement~~,~~ and signed a safety plan.

(B) The department may retain physical custody of the child for no more than five additional days if necessary to enable the relative or other person to make travel or other arrangements incident to the placement.

~~(B)~~(C) A probable cause hearing pursuant to Section 63‑7‑710 ~~shall~~ must not be held unless the placement fails to occur as planned within the five‑day period or the child’s parent or guardian makes a written request for a hearing to the department. The department ~~must~~ shall give the child’s parent or guardian written notice of the right to request a probable cause hearing to obtain a judicial determination of whether removal of the child from the home was and remains necessary. Upon receipt of a written request for a hearing from the child’s parent or guardian, the department shall schedule a hearing for the next date on which the family court is scheduled to hear probable cause hearings.

~~(C)~~(D) If the placement does not occur as planned within the five‑day period, the department immediately ~~must~~ shall determine whether to assume legal custody of the child and file a petition as provided in Section 63‑7‑700(B). The department shall assure that the child is given age‑appropriate information about the plans for placement and any subsequent changes in those plans at the earliest feasible time.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

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

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