**A** **BILL**

TO AMEND SECTION 63‑19‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF “CHILD” AND “JUVENILE” IN THE JUVENILE JUSTICE CODE, SO AS TO CHANGE THE AGE TO A PERSON UNDER TWENTY‑ONE YEARS OF AGE, WITH EXCEPTIONS; TO AMEND SECTIONS 63‑19‑1030, 63‑19‑1210, 63‑19‑1410, 63‑19‑1420, 63‑19‑1440, AS AMENDED, 63‑19‑1650, AND 63‑19‑2050, AS AMENDED, ALL RELATING TO JUVENILE JUSTICE, SO AS TO MAKE CONFORMING CHANGES.

Whereas, the human brain does not finish developing until a person is in his mid‑twenties; and

Whereas, eighteen to twenty‑five year olds are more similar developmentally to adolescents than to mature adults; and

Whereas, a United States Department of Justice study found that about seventy‑five percent of under twenty‑five year olds released from prison are rearrested within three years, the highest recidivism rate of any age group; and

Whereas, older teens who remain in the juvenile justice system, rather than the adult criminal justice system, are less likely to reoffend; and

Whereas, a criminal record undermines opportunities for education, employment, and housing, all critical to being a productive member of a community; and

Whereas, the availability of a continuum of individualized services as part of a robust juvenile justice system and a commitment to using incarceration as a last resort will lower recidivism and improve outcomes, while saving taxpayer dollars. Now, therefore,

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

SECTION 1. Section 63‑19‑20(1) of the 1976 Code is amended to read:

“(1) ‘Child’ or ‘juvenile’ means a person less than ~~seventeen~~ twenty‑one years of age. ‘Child’ or ‘juvenile’ does not mean a person sixteen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more. However, a person sixteen years of age who is charged with a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.”

SECTION 2. Section 63‑19‑1030(B) of the 1976 Code is amended to read:

“(B) The petition and all subsequent court documents must be entitled:

‘In the Family Court of \_\_\_ County.

In the Interest of \_\_\_, a child under ~~seventeen~~ twenty‑one years of age.’

The petition must be verified and may be upon information and belief. It shall set forth plainly:

(1) the facts which bring the child within the purview of this chapter;

(2) the name, age, and residence of the child;

(3) the names and residences of the child’s parents;

(4) the name and residence of a legal guardian, if there is one, of the person or persons having custody of or control of the child, or of the nearest known relative if no parent or guardian can be found. If any of these facts are not known by the petitioner, the petition shall state that.”

SECTION 3. Section 63‑19‑1210(1) of the 1976 Code is amended to read:

“(1) If, during the pendency of a criminal or quasi‑criminal charge against a child in a circuit court of this State, it is ascertained that the child was under the age of ~~seventeen~~ twenty‑one years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all the papers, documents, and testimony connected with it, to the family court of competent jurisdiction, except in those cases where the Constitution gives to the circuit court exclusive jurisdiction or in those cases where jurisdiction has properly been transferred to the circuit court by the family court under the provisions of this section. The court making the transfer shall order the child to be taken immediately to the place of detention designated by the court or to that court itself, or shall release the child to the custody of some suitable person to be brought before the court at a time designated. The court then shall proceed as provided in this chapter. The provisions of this section are applicable to all existing offenses and to offenses created in the future unless the General Assembly specifically directs otherwise.”

SECTION 4. Section 63‑19‑1410(A)(3) of the 1976 Code is amended to read:

“(3) place the child on probation or under supervision in the child’s own home or in the custody of a suitable person elsewhere, upon conditions as the court may determine. A child placed on probation by the court remains under the authority of the court only until the expiration of the specified term of the child’s probation. This specified term of probation may expire before but not after the ~~eighteenth~~ twenty‑first birthday of the child. Probation means casework services during a continuance of the case. Probation must not be ordered or administered as punishment but as a measure for the protection, guidance, and well‑being of the child and the child’s family. Probation methods must be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child’s personality and character, with the aid of the social resources of the community. As a condition of probation, the court may order the child to participate in a community mentor program as provided for in Section 63‑19‑1430. The court may impose monetary restitution or participation in supervised work or community service, or both, as a condition of probation. The Department of Juvenile Justice, in coordination with local community agencies, shall develop and encourage employment of a constructive nature designed to make reparation and to promote the rehabilitation of the child. When considering the appropriate amount of monetary restitution to be ordered, the court shall establish the monetary loss suffered by the victim and then weigh and consider this amount against the number of individuals involved in causing the monetary loss, the child’s particular role in causing this loss, and the child’s ability to pay the amount over a reasonable period of time. The Department of Juvenile Justice shall develop a system for the transferring of court‑ordered restitution from the child to the victim or owner of property injured, destroyed, or stolen. As a condition of probation the court may impose upon the child a fine not exceeding two hundred dollars when the offense is one in which a magistrate, municipal, or circuit court judge has the authority to impose a fine. A fine may be imposed when commitment is suspended but not in addition to commitment;”

SECTION 5. Section 63‑19‑1420(B) and (E) of the 1976 Code is amended to read:

“(B) If a child is adjudicated delinquent for violation of a criminal offense or is found in violation of a court order relating to a criminal offense or is found in violation of a term or condition of probation, the court may suspend or restrict the child’s driver’s license until the child’s ~~eighteenth~~ twenty‑first birthday.

(E) Notwithstanding the definition of a ‘child’ as provided for in Section 63‑19‑20, the court may suspend or restrict the driver’s license of a child under the age ~~of seventeen until the child’s eighteenth birthday~~ twenty‑one if subsection (B) applies.”

SECTION 6. Section 63‑19‑1440(A) and (E) of the 1976 Code is amended to read:

“(A) A child, after the child’s twelfth birthday and before the ~~seventeenth~~ twenty‑first birthday or while under the jurisdiction of the family court for disposition of an offense that occurred prior to the child’s ~~seventeenth~~ twenty‑first birthday, may be committed to the custody of the Department of Juvenile Justice which shall arrange for placement in a suitable corrective environment. Children under the age of twelve years may be committed only to the custody of the department which shall arrange for placement in a suitable corrective environment other than institutional confinement. No child under the age of ~~seventeen~~ twenty‑one years may be committed or sentenced to any other penal or correctional institution of this State.

(E) A juvenile committed to the Department of Juvenile Justice following an adjudication for a violent offense contained in Section 16‑1‑60 or for the offense of assault and battery of a high and aggravated nature, who has not been paroled or released from the custody of the department by his ~~seventeenth~~ twenty‑first birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. A juvenile who has not been paroled or released from the custody of the department by his nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections at age nineteen. If not released sooner by the Board of Juvenile Parole, a juvenile transferred pursuant to this subsection must be released by his twenty‑first birthday according to the provisions of his commitment. Notwithstanding the above provision, a juvenile committed as an adult offender by order of the court of general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.”

SECTION 7. Section 63‑19‑1650(A) of the 1976 Code is amended to read:

“(A) The Department of Juvenile Justice, when authorized by an order of a circuit judge, must, after notice to the Department of Corrections, temporarily shall transfer to the custody of the Youthful Offender Division a child who has been committed to the custody of the department who is more than ~~seventeen~~ twenty years of age and whose presence in the custody of the Department of Juvenile Justice appears to be seriously detrimental to the welfare of others in custody. The director of the Department of Corrections shall receive these children and shall properly care for them. Each child transferred to the Youthful Offender Division is subject to all the rules and discipline of the division. Children transferred to the Youthful Offender Division pursuant to this section are under the authority of the division but are subject to release Board of Juvenile Parole.”

SECTION 8. Section 63‑19‑2050(C)(3) of the 1976 Code, as last amended by Act 22 of 2015, is further amended to read:

“(3) The court shall not grant the expungement order unless the court finds that the person is at least ~~seventeen~~ twenty‑one years of age, has successfully completed any dispositional sentence imposed, has not been subsequently adjudicated for or convicted of any criminal offense, and does not have any criminal charges pending in family court or general sessions court. If the person was found not guilty in an adjudicatory hearing in the family court, the court shall grant the expungement order regardless of the person’s age and the person must not be charged a fee for the expungement. An adjudication for a violent crime, as defined in Section 16‑1‑60, must not be expunged.”

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

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