~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 20, 2019

**S. 79**

Introduced by Senators Sheheen and Climer

S. Printed 2/20/19--S. [SEC 2/21/19 11:28 AM]

Read the first time January 8, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 79) to amend Section 63-7-20(6) of the 1976 Code, relating to general provisions concerning child protection and permanency, to provide exceptions to the definition of, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, beginning on page 1, by striking SECTION 1 in its entirety, and inserting therein the following:

/ SECTION 1. Section 63-7-20(6) of the 1976 Code is amended to read:

“(6)(a) ‘Child abuse or neglect’ or ‘harm’ occurs when:

~~(a)~~(i) the parent, guardian, or other person responsible for the child’s welfare:

~~(i)~~(A) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

~~(A)~~(1) is administered by a parent or person in loco parentis;

~~(B)~~(2) is perpetrated for the sole purpose of restraining or correcting the child;

~~(C)~~(3) is reasonable in manner and moderate in degree; and

~~(D) has not brought about permanent or lasting damage to the child; and~~

~~(E)~~(4) is not reckless or grossly negligent behavior by the parents;

~~(ii)~~(B) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

~~(iii)~~(C) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child’s age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child’s absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child’s attendance, and those efforts were unsuccessful because of the parents’ refusal to cooperate. For the purpose of this chapter ‘adequate health care’ includes any medical or nonmedical remedial health care permitted or authorized under state law;

~~(iv)~~(D) abandons the child;

~~(v)~~(E) encourages, condones, or approves the commission of delinquent acts by the child including, but not limited to, sexual trafficking or exploitation, and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

~~(vi)~~(F) has committed abuse or neglect as described in subsubitems ~~(i) through (v)~~(A) through (E) such that a child who subsequently becomes part of the person’s household is at substantial risk of one of those forms of abuse or neglect; or

~~(b)~~(ii) a child is a victim of trafficking in persons as defined in Section 16‑3‑2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child’s welfare abused, neglected, or harmed the child.

(b) ‘Child abuse or neglect’ or ‘harm’ does not occur if the parent, guardian, or other person responsible for the child’s welfare permits the child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(i) walking, running, bicycling, or taking other independent means of travel to and from school;

(ii) walking, running, bicycling, or taking other independent means of travel to and from nearby commercial or recreational facilities;

(iii) engaging in outdoor play;

(iv) remaining at home unattended if the parent, guardian, or other person responsible for the child’s welfare:

(A) returns home on the same day on which the parent, guardian, or other person responsible for the child’s welfare gives the child permission to remain at home;

(B) makes provisions for the child to be able to contact the parent, guardian, or other person responsible for the child’s welfare on the same day on which the parent, guardian, or other person responsible for the child’s welfare gives the child permission to remain at home; and

(C) makes provisions for any reasonably foreseeable emergencies that may arise on the same day on which the parent, guardian, or other person responsible for the child’s welfare gives the child permission to remain at home; or

(v) engaging in similar independent activities.” /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 8, 2019**

**State Expenditure**

This bill amends Section 63-7-20(6) by providing exceptions to the definition of “child abuse or neglect” or “harm.” The Department of Social Services current policy defines child abuse, neglect and harm, and also defines a child as “a person under the age of eighteen.” This bill adds language that expands upon and clarifies these definitions. The bill does not operationally or fiscally impact the department, and does not have an expenditure impact on the general fund, other funds, or federal funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 63-7-20(6) OF THE 1976 CODE, RELATING TO GENERAL PROVISIONS CONCERNING CHILD PROTECTION AND PERMANENCY, TO PROVIDE EXCEPTIONS TO THE DEFINITION OF “CHILD ABUSE OR NEGLECT” OR “HARM”.

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

SECTION 1. Section 63-7-20(6) of the 1976 Code is amended to read:

“(6)(a) ‘Child abuse or neglect’ or ‘harm’ occurs when:

~~(a)~~(i) the parent, guardian, or other person responsible for the child’s welfare:

~~(i)~~(A) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

~~(A)~~(1) is administered by a parent or person in loco parentis;

~~(B)~~(2) is perpetrated for the sole purpose of restraining or correcting the child;

~~(C)~~(3) is reasonable in manner and moderate in degree;

~~(D)~~(4) has not brought about permanent or lasting damage to the child; and

~~(E)~~(5) is not reckless or grossly negligent behavior by the parents;

~~(ii)~~(B) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

~~(iii)~~(C) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child’s age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child’s absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child’s attendance, and those efforts were unsuccessful because of the parents’ refusal to cooperate. For the purpose of this chapter ‘adequate health care’ includes any medical or nonmedical remedial health care permitted or authorized under state law;

~~(iv)~~(D) abandons the child;

~~(v)~~(E) encourages, condones, or approves the commission of delinquent acts by the child including, but not limited to, sexual trafficking or exploitation, and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

~~(vi)~~(F) has committed abuse or neglect as described in subsubitems (i) through (v) such that a child who subsequently becomes part of the person’s household is at substantial risk of one of those forms of abuse or neglect; or

~~(b)~~(ii) a child is a victim of trafficking in persons as defined in Section 16‑3‑2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child’s welfare. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child’s welfare abused, neglected, or harmed the child.

(b) ‘Child abuse or neglect’ or ‘harm’ does not occur if the parent, guardian, or other person responsible for the child’s welfare permits the child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(i) walking, running, bicycling, or taking other independent means of travel to and from school;

(ii) walking, running, bicycling, or taking other independent means of travel to and from nearby commercial or recreational facilities;

(iii) engaging in outdoor play;

(iv) remaining in a vehicle unattended, unless the parent or guardian intentionally, recklessly, knowingly, or with criminal negligence leaves the child in a vehicle;

(v) remaining at home unattended; or

(vi) engaging in similar independent activities.”

SECTION 2. This act takes effect upon approval by the Governor.

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