**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3558**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, Erickson, Crawford, Hewitt, Davis, T. Moore, B. Newton, Mitchell, Yow, Carter, Hixon, Hiott, Landing, W. Newton, Robbins, Brewer, Weeks, Wheeler, Taylor and Pope

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Introduced in the House on January 10, 2023

Introduced in the Senate on April 6, 2023

Last Amended on April 5, 2023

Currently residing in the Senate Committee on **Family and Veterans' Services**

Summary: Safety Plans and Relative Placements

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/15/2022 House Prefiled

 12/15/2022 House Referred to Committee on **Judiciary**

 1/10/2023 House Introduced and read first time (House Journal‑page 209)

 1/10/2023 House Referred to Committee on **Judiciary** (House Journal‑page 209)

 1/12/2023 House Member(s) request name added as sponsor: Yow

 1/18/2023 House Member(s) request name added as sponsor: Carter,
 Hixon, Hiott

 1/31/2023 Scrivener's error corrected

 2/1/2023 House Member(s) request name added as sponsor: Landing

 3/28/2023 House Member(s) request name added as sponsor: W. Newton

 3/29/2023 House Member(s) request name added as sponsor: Robbins,
 Brewer

 3/29/2023 House Committee report: Favorable with amendment **Judiciary** (House Journal‑page 53)

 3/30/2023 House Member(s) request name added as sponsor: Weeks,
 Wheeler

 4/4/2023 House Member(s) request name added as sponsor: Taylor, Pope

 4/4/2023 House Debate adjourned (House Journal‑page 36)

 4/5/2023 House Amended (House Journal‑page 27)

 4/5/2023 House Read second time (House Journal‑page 27)

 4/5/2023 House Roll call Yeas-103 Nays-0 (House Journal‑page 36)

 4/6/2023 House Read third time and sent to Senate (House Journal‑page 20)

 4/6/2023 House Roll call Yeas-102 Nays-0 (House Journal‑page 21)

 4/6/2023 Senate Introduced and read first time (Senate Journal‑page 35)

 4/6/2023 Senate Referred to Committee on **Family and Veterans' Services** (Senate Journal‑page 35)

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**VERSIONS OF THIS BILL**

[12/15/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3558_20221215.docx)

[01/31/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3558_20230131.docx)

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[04/06/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3558_20230406.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

April 5, 2023

H. 3558

Introduced by Reps. G.M. Smith, Erickson, Crawford, Hewitt, Davis, T. Moore, B. Newton, Mitchell, Yow, Carter, Hixon, Hiott, Landing, W. Newton, Robbins, Brewer, Weeks, Wheeler, Taylor and Pope

S. Printed 04/05/23--H. [SEC 4/6/2023 3:38 PM]

Read the first time January 10, 2023

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A bill

to amend the South Carolina Code of Laws by adding Sections 63‑7‑693 and 63‑7‑696 so as to require parties to execute a safety plan before the Department of Social Services may place a child outside the home without taking legal custody, to establish limitations on the use of a safety plan for child protection, and for other purposes; by amending Section 63‑7‑650, relating to the placement of a child outside the home instead of entering state custody, so as to change certain requirements relating to assessing the safety and appropriateness of an out‑of‑home placement; by amending Section 63‑7‑690, relating to the allowable timeframe to make an interim out‑of‑home placement of a child, so as to change the timeframe; and by amending Section 63‑7‑730, relating to Expedited placement of child with A relative at the probable cause hearing, so as to make conforming changes.

 Amend Title To Conform

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

SECTION 1.A. SubArticle 3, Article 3, Chapter 7, Title 63 of the S.C. Code is amended by adding:

 Section 63-7-645. (A)(1) Following the initiation of an investigation of a report of suspected child abuse or neglect pursuant to Section 63-7-920, the department may determine that a child or children need to be temporarily placed with a relative or other person who is willing to serve as an interim placement for the child or children. The relative or other person must meet the requirements established pursuant to subsection (E). The department shall develop and execute a safety plan regarding the placement with the relative or other person within seventy-two hours of the decision for placement. The purpose of the safety plan is to reduce imminent threats to a child's safety.

 (2) A safety plan does not:

 (a) remove legal custody of the child from the parent or guardian; or

 (b) modify an existing court order regarding custody of the child, visitation, or child support.

 (B)(1) A safety plan expires no later than ninety days after receipt of the report of suspected child abuse or neglect. At the conclusion of the investigation or upon expiration of the safety plan, whichever comes first:

 (a) the child may return to the home, if the department determines that return of the child would not cause an unreasonable risk of harm to the child's physical health, safety, and well-being;

 (b) the department shall file a removal action pursuant to Section 63-7-1660;

 (c) the department shall file an intervention action pursuant to Section 63-7-1650; or

 (d) the department shall provide family preservation services pursuant to Section 63-7-1510.

 (2) A safety plan must terminate immediately upon a determination by the department that a report is unfounded.

 (C) A safety plan must be a written document and must be prepared by the department with the participation of the parent, custodian, or guardian and the relative or other person identified by the department to serve as an interim placement for the child or children, and be signed by all participants. It must include, at a minimum:

 (1) the name and address of the parent, custodian, or guardian;

 (2) the name and address of the relative or other person;

 (3) the name, address, and telephone number of the department case worker and supervisor;

 (4) the name and date of birth of the child;

 (5) a description of the reasons why a safety plan is required;

 (6) a description of the actions to be taken by the parent, custodian, or guardian; the responsibilities of the relative or other person; and the responsibilities of the department to protect the child during the safety plan;

 (7) a plan for visitation and other contact between the child and the parent, custodian, or guardian;

 (8) a description of the immediate needs of the child including, but not limited to, educational, medical, and mental health needs;

 (9) the date on which the safety plan expires, which must comply with subsection (B)(1);

 (10) a plan for the financial support of the child, if placed out of the home; and

 (11) a statement that the department has the right to file a court action at any time, if the parent, custodian, or guardian or the relative or other person fails to comply with the safety plan or if the department determines that the safety plan otherwise fails to reduce threats to the child’s safety and a statement that the parent, custodian, or guardian may be entitled to representation by an attorney in such court action.

 (D) The department shall monitor the safety plan weekly, or more often if considered necessary, to assess the plan’s effectiveness in controlling immediate threats to safety. The department shall make face-to-face contact with the child at least monthly. The safety plan may be amended to respond to any needs identified by the participants if amendment would enhance the effectiveness of the safety plan in controlling immediate threats to the child’s safety. Any amendments must comply with the requirements set out in subsection (C). In no event shall an amendment to a safety plan extend the duration of the safety plan beyond ninety days.

 (E)(1) Before agreeing to placement of the child with a relative or other person, the department shall:

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

 (b) visit the relative’s or other person’s home to ensure that the placement is safe and appropriate for the needs of the child.

 (2) Within twenty-four hours of placing the child with a relative or other person, the department shall secure from the person with whom the child is placed and other adults in the home a signed, written statement attesting that no adult or child residing in the home has a history of child abuse or neglect and that no adult or child residing in the home has a criminal history that indicates that there is a significant risk that the child would be threatened with abuse or neglect in the home.

 (3) Within five days, the department shall confirm the information supplied in the signed, written statement 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 and, to the extent reasonably possible, jurisdictions in which the relative or other person has resided during that period. The relative or other person shall consent to a background check by the department as provided for in this subsection.

 (4) The department must not agree to a placement if the interview, home visit, or signed, written statement, or records obtained pursuant to item (3) reveal information indicating there is a significant risk that the child would be threatened with abuse or neglect in the home.

B. Article 3, Chapter 7, Title 63 of the S.C. Code is amended by adding:

 Subarticle 10

 Family Preservation Services

 Section 63-7-1510. (A) The purpose of this subarticle is to provide a process for the delivery of protective services when a report has been indicated pursuant to subarticles 5 and 13, and is not being brought before the family court for disposition.

 (B) The department shall develop a child and family plan pursuant to the requirements established in Section 63-7-1520 for the provision of family preservation services. The department shall monitor the family and, at a minimum, have monthly face-to-face visits with any child who suffered harm as that term is defined in Section 63-7-20. Additionally, the department shall conduct at least monthly face-to-face visits with all children who live in the home where the harm occurred and in the home of any perpetrator.

 Section 63-7-1520. (A) When a report has been indicated pursuant to subarticles 5 and 13 and will not be brought before the family court for disposition, the department immediately shall coordinate services to ensure the safety and welfare of the minor children. However, no later than forty-five days after the indicated case decision, the department shall develop a child and family plan. The plan must be a written document prepared by the department. To the extent possible, the plan must be prepared with the participation of the parents, custodian, or guardian of the child, the child, and any other agency or individual that will be required to provide services in order to implement the plan. At a minimum, the plan must:

 (1) be signed by the parents, custodian, or guardian, the department, and, if applicable, the relative or other person designated as an alternative placement for the child;

 (2) detail any changes in behavior or home conditions that must be made and any services that must be provided to the family to ensure, to the greatest extent possible, that the child will not be endangered;

 (3) describe any limitations on the parent’s, custodian’s, or guardian’s contact with the minor child and a plan for visitation and other contact between the child and the parent, custodian, or guardian;

 (4) include the name and address of the parents, custodian, or guardian, and if applicable, the name and address of the relative or other person; the name, address, and telephone number of the department case worker and supervisor; and the name and date of birth of the child;

 (5) describe the reasons a plan is required;

 (6) describe the actions to be taken by the parent, custodian, or guardian; the responsibilities of the relative or other person; and the responsibilities of the department to protect the child during the plan;

 (7) list the needs of the child including, but not limited to, educational, medical, and mental health needs;

 (8) provide the date on which the plan expires, which must comply with subsection (D);

 (9) address the financial support of the child, if placed out of the home;

 (10) contain a notice that the department has the right to file a court action for intervention or removal of the child at any time, if the parent, custodian, or guardian or the relative or other person fails to comply with the plan or if the department determines that the plan otherwise fails to reduce threats to the child’s safety and a notice that the parent, custodian, or guardian may be entitled to representation by an attorney in such court action. The notice must be printed in boldface print or in all uppercase letters; and

 (11) contain the following language in boldface type on the first page: “Placing the child or children by the parent(s) or custodian(s) with a third party is a voluntary act. At any time during this agreement the parent(s) or custodian(s) may elect to discontinue the out-of-home placement and request the return of the child or children by notifying the department in writing. However, nothing prevents the department from requesting law enforcement to place the child or children in emergency protective custody, filing an action seeking emergency removal of the child or children including requesting ex parte relief, filing an action for nonemergency removal, or filing an action to intervene to provide services.

 (B) The department shall give a copy of the plan to the parents, custodian, or guardian. The department shall give a copy of any portion of the plan that pertains to a relative or other person to that person.

 (C)(1) The department must comply with the provisions of this subsection if a child is to be placed out of the home pursuant to a child and family plan.

 (2) Before agreeing to placement of the child with a relative or other person, the department shall:

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

 (b) visit the relative’s or other person’s home to ensure that the placement is safe and appropriate for the needs of the child.

 (3) Within twenty-four hours of placing the child with a relative or other person, the department shall secure from the person with whom the child is placed and other adults in the home a signed, written statement attesting that no adult or child residing in the home has a history of child abuse or neglect and that no adult or child residing in the home has a criminal history that indicates that there is a significant risk that the child would be threatened with abuse or neglect in the home.

 (4) Within five days, the department shall confirm the information supplied in the signed, written statement 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 and, to the extent reasonably possible, jurisdictions in which the relative or other person has resided during that period. The relative or other person shall consent to a background check by the department as provided for in this subsection.

 (5) The department must not agree to a placement if the interview, home visit, or signed, written statement, or records obtained pursuant to item (4) reveal information indicating there is a significant risk that the child would be threatened with abuse or neglect in the home.

 (D) At a minimum, the department shall review the effectiveness of the plan every three months to determine whether all issues relating to abuse or neglect of the child are being appropriately addressed by the plan, including whether additional services are needed, progress is being made toward the required behavioral changes, and whether the child can be safely maintained in the home. The plan may be amended at any time if the department, the parent, custodian, or guardian, and, if applicable, the relative or other person agrees to the revision. The plan must terminate within six months unless:

 (1) the parent, custodian, or guardian has demonstrated due diligence and a commitment to correcting conditions that led to the indicated case decision;

 (2) there are specific reasons to believe the conditions that led to the indicated case decision will be corrected by the end of an extension of time; and

 (3) the department documents specific reasons for extension of the plan.

In no event shall the plan exceed twelve months from the date it is first signed. An amendment to a plan or receipt of an additional indicated report must not extend the time.

 Section 63-7-1530. (A) Family preservation services pursuant to this subarticle must terminate when the department determines the child can be safely maintained in the home. If the child has resided with a relative or other person during the delivery of family preservation services, the child may return home when the child can be safely maintained in the home. In no event may family preservation services pursuant to this subarticle exceed twelve months from the date a child and family plan is first signed.

 (B) At any time during the delivery of family preservation services if the department determines that a child cannot be safely maintained in the home of the parent, custodian, or guardian, or a relative or other person, the department may petition the family court for relief pursuant to Section 63-7-1650 or 63-7-1660. If the department determines there is probable cause to believe that by reason of abuse or neglect there exists imminent and substantial danger to the child’s life, health, or physical safety, the department shall report this determination to a law enforcement officer, or, in the alternative, shall seek ex parte relief from the family court pursuant to Section 63-7-740.

C. Section 63-7-20 (22), (23), (24), (25), (26), (27), (28), (29), (30), and (31) of the S.C. Code is amended to read:

 (22) “Placement plan” means a plan developed pursuant to Section 63-7-1680.

 (23) “Preponderance of evidence” means evidence which, when fairly considered, is more convincing as to its truth than the evidence in opposition.

 (2324) “Probable cause” means facts and circumstances based upon accurate and reliable information, including hearsay, that would justify a reasonable person to believe that a child subject to a report under this chapter is abused or neglected.

 (2425) “Protective services unit” means the unit established within the Department of Social Services which has prime responsibility for state efforts to strengthen and improve the prevention, identification, and treatment of child abuse and neglect.

 (2526) “Qualified individual” means a trained professional or licensed clinician. A “qualified individual” may be an employee of the department or affiliated with the placement setting, but the individual must maintain objectivity in determining the appropriate placement for the child.

 (2627) “Qualified residential treatment program” means a childcare institution that:

 (a) has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required pursuant to Section 63-7-1730;

 (b) has registered or licensed nursing staff and other licensed clinical staff who:

 (i) provide care within the scope of their practice as defined by state law;

 (ii) are on-site according to the treatment model referred to in subitem (a); and

 (iii) are available twenty-four hours a day and seven days a week;

 (c) to the extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

 (d) facilitates outreach to the family members of the child, including siblings; documents how the outreach is made, including contact information; and maintains contact information for any known biological family and fictive kin of the child;

 (e) documents how family members are integrated into the treatment process for the child, including postdischarge, and how sibling connections are maintained;

 (f) provides discharge planning and family-based aftercare support for at least six months postdischarge; and

 (g) is licensed by the department and is accredited by any of the following independent, not-for-profit organizations:

 (i) Commission on Accreditation of Rehabilitation Facilities (CARF);

 (ii) Joint Commission on Accreditation of Health Care Organizations (JCAHO);

 (iii) Council on Accreditation (COA);

 (iv) Teaching Family Association;

 (v) Educational Assessment Guidelines Leading Toward Excellence (EAGLE); or

 (vi) another organization approved by the department.

 (2728) “Reasonable and prudent parent standard” means the standard of care characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encouraging the growth and development of the child, that a caregiver shall use when determining whether to allow a child in foster care to participate in age or developmentally appropriate activities.

 (29) “Safety plan” means a plan developed pursuant to Section 63-7-645.

 (2830) “Subject of the report” means a person who is alleged or determined to have abused or neglected the child, who is mentioned by name in a report or finding.

 (2931) “Suspected report” means all initial reports of child abuse or neglect received pursuant to this chapter.

 (32) “Treatment plan” means a plan developed pursuant to Section 63-7-1670.

 (3033) “Unfounded report” means a report made pursuant to this chapter for which there is not a preponderance of evidence to believe that the child is abused or neglected. For the purposes of this chapter, it is presumed that all reports are unfounded unless the department determines otherwise.

 (3134) “Near fatality” means an act of abuse or neglect that, as certified by a physician, places a child in serious or critical condition.

SECTION 2. Section 63‑7‑650(A) of the S.C. Code is amended to read:

 (A)(1) 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 while retaining custody of the child or as soon as possible after agreeing to or acquiescing in a corrective action, the department shall:

 (a) interview the relative or other person to determine the person’s willingness, fitness, and suitability to serve as a placement for the child;

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

 (c) 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

 (d) As 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.

 (2) 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)(1)(d) 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 consent to a check of the above records by the department.

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

 Section 63‑7‑690. (A) If 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 seventy‑two hours following removal of the child from the home:

 (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 have signed a safety plan.

 (B) the The department may retain physical custody of the child for no more than five ten 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 not be held unless the placement fails to occur as planned within the five‑day ten‑day period or the child's parent or guardian makes a written request for a hearing to the department. The department must 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 ten‑day period, the department immediately must 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. Section 63‑7‑730(A) of the S.C. Code is amended to read:

 (A) If the court finds at the probable cause hearing that the department made reasonable efforts to prevent removal of the child and that continuation of the child in the home would be contrary to the welfare of the child, the court may order expedited placement of the child with a grandparent or other relative of the first or second degree. In making this expedited placement decision, the court shall consider the totality of the circumstances including, but not limited to, the individual's suitability, fitness, and willingness to serve as a placement for the child. A parent who complies with these requirements must be the first relative considered by the court for expedited placement. The court shall require the department to check the names of all adults in the home against the Central Registry of Child Abuse and Neglect, other relevant records of the department, county sex abuse registers, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the person resides and, to the extent reasonably possible, jurisdictions in which the person has resided during that period. The court may hold open the record of the probable cause hearing for up to twenty‑four seventy‑two hours to receive these reports. Nothing in this section precludes the department from requesting or the court from ordering pursuant to the department's request either a full study of the individual's home before placement or the licensing or approval of the individual's home before placement.

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

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