**South Carolina General Assembly**

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**S. 415**

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General Bill

Sponsors: Senators Young, Elliott, Sutton, Ott, Devine and Reichenbach

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

Summary: Kin-Specific Licensing Standards

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/4/2025 Senate Introduced and read first time ([Senate Journal‑page 9](h:\sj\20250304.docx))

3/4/2025 Senate Referred to Committee on **Family and Veterans' Services** ([Senate Journal‑page 9](h:\sj\20250304.docx))

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**VERSIONS OF THIS BILL**

[03/04/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/415_20250304.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63‑7‑20, RELATING TO CHILDREN’S CODE DEFINITIONS, SO AS TO ADD THE TERM “LICENSED”; BY AMENDING SECTION 63‑9‑1110, RELATING TO ADOPTION BY A STEPPARENT OR RELATIVE, SO AS TO APPLY TO CHILDREN PLACED WITH RELATIVES OR FICTIVE KIN FOR THE PURPOSE OF ADOPTION; BY AMENDING SECTION 63‑7‑2320, RELATING TO THE KINSHIP FOSTER CARE PROGRAM, SO AS TO LOWER THE MINIMUM AGE OF A KINSHIP FOSTER PARENT FROM TWENTY‑ONE TO EIGHTEEN AND TO ALLOW THE DEPARTMENT TO USE DIFFERENT STANDARDS WHEN LICENSING RELATIVES AND FICTIVE KIN; BY AMENDING SECTION 63‑7‑2350, RELATING TO RESTRICTIONS ON FOSTER CARE, ADOPTION, OR LEGAL GUARDIAN PLACEMENTS, SO AS TO MAKE CONFORMING CHANGES; AND BY AMENDING SECTION 63‑7‑2400, RELATING TO THE NUMBER OF FOSTER CHILDREN WHO MAY BE PLACED IN A FOSTER HOME, SO AS TO REMOVE THERAPEUTIC FOSTER CARE PLACEMENT LIMITATIONS FROM KINSHIP FOSTER CARE PLACEMENTS.

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

SECTION 1. Section 63‑7‑20 of the S.C. Code is amended to read:

Section 63‑7‑20. When used in this chapter or Chapter 9 or 11 and unless the specific context indicates otherwise:

(1) “Abandonment of a child” means a parent or guardian wilfully deserts a child or wilfully surrenders physical possession of a child without making adequate arrangements for the child's needs or the continuing care of the child.

(2) “Affirmative determination” means a finding by a preponderance of evidence that the child was abused or neglected by the person who is alleged or determined to have abused or neglected the child and who is mentioned by name in a report or finding. This finding may be made only by:

(a) the court;

(b) the Department of Social Services upon a final agency decision in its appeals process; or

(c) waiver by the subject of the report of his right to appeal. If an affirmative determination is made by the court after an affirmative determination is made by the Department of Social Services, the court's finding must be the affirmative determination.

(3) “Age or developmentally appropriate” means:

(a) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group;

(b) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child; and

(c) activities that include, but are not be limited to, the following:

(i) sports;

(ii) field trips;

(iii) extracurricular activities;

(iv) social activities;

(v) after school programs or functions;

(vi) vacations with caregiver lasting up to two weeks;

(vii) overnight activities away from caregiver lasting up to one week;

(viii) employment opportunities; and

(ix) in‑state or out‑of‑state travel, excluding overseas travel;

(d) activities that do not conflict with any pending matters before the court, an existing court order, or the child's scheduled appointments for evaluations or treatment.

(4) “Caregiver” means a foster parent, kinship foster parent, or employee of a group home who is designated to make decisions regarding age or developmentally appropriate activities or experiences on behalf of a child in the custody of the department.

(5) “Child” means a person under the age of eighteen.

(6) “Child abuse or neglect” or “harm” occurs when:

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

(i) 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) is administered by a parent or person in loco parentis;

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

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

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

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

(ii) 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) 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) abandons the child;

(v) 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;

(vi) commits or allows to be committed against the child female genital mutilation as defined in Section 16‑3‑2210 or engages in acts or omissions that present a substantial risk that the crime of female genital mutilation would be committed against the child; or

(vii) has committed abuse or neglect as described in subsubitems (i) through (vi) 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) 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.

(7) “Childcare institution” means a private childcare institution, or a public childcare institution which accommodates no more than twenty‑five children, that is licensed by the department. “Childcare institution” does not include wilderness camps or training schools, nor does it include any facility that exists primarily for the detention or correction of children.

(8) “Child protective investigation” means an inquiry conducted by the department in response to a report of child abuse or neglect made pursuant to this chapter.

(9) “Child protective services” means assistance provided by the department as a result of indicated reports or affirmative determinations of child abuse or neglect, including assistance ordered by the family court or consented to by the family. The objectives of child protective services are to:

(a) protect the child's safety and welfare; and

(b) maintain the child within the family unless the safety of the child requires placement outside the home.

(10) “Court” means the family court.

(11) “Department” means the Department of Social Services.

(12)(a) “Emergency protective custody” means the right to physical custody of a child for a temporary period of no more than twenty‑four hours to protect the child from imminent danger.

(b) Emergency protective custody may be taken only by a law enforcement officer pursuant to this chapter.

(13) “Legal Guardianship” means:

(a) a judicially established relationship between a child and caretaker that is intended to be permanent and self‑sustaining and transfers to the caretaker the following parental rights and responsibilities with respect to the child:

(i) the duty to provide protection, support, food, clothing, shelter, supervision, education, and care;

(ii) physical custody of the child;

(iii) legal custody when family court has not awarded legal custody to another person, agency, or institution;

(iv) the right to consent to marriage, enlistment in the armed forces, and medical and surgical treatment;

(v) the duty and authority to represent the child in legal actions and to make decisions of substantial legal significance affecting the child;

(vi) the right to determine the nature and extent of the child's contact with other persons; and

(vii) the right to manage the child's income and assets.

(b) Unless the court so orders, legal guardianship does not terminate the parent‑child relationship, including the right of the child to inherit from his parent, the parent's right to consent to the child's adoption, and the parent's obligation to provide financial, medical, or other support for the child as the court may order.

(14) “Indicated report” means a report of child abuse or neglect supported by facts which warrant a finding by a preponderance of evidence that abuse or neglect is more likely than not to have occurred.

(15) “Institutional child abuse and neglect” means situations of known or suspected child abuse or neglect where the person responsible for the child’s welfare is the employee of a public or private residential home, institution, or agency.

(16) “Legal custody” means the right to the physical custody, care, and control of a child; the right to determine where the child shall live; the right and duty to provide protection, food, clothing, shelter, ordinary medical care, education, supervision, and discipline for a child and in an emergency to authorize surgery or other extraordinary care. The court may in its order place other rights and duties with the legal custodian. Unless otherwise provided by court order, the parent or guardian retains the right to make decisions of substantial legal significance affecting the child, including consent to a marriage, enlistment in the armed forces, and major nonemergency medical and surgical treatment, the obligation to provide financial support or other funds for the care of the child, and other residual rights or obligations as may be provided by order of the court.

(17) “Licensed” means the department has approved, certified, or verified the suitability of a person, home, institution, facility, or agency to provide placement, care, supervision, or services for children in the care, custody, or guardianship of the department.

(17)(18) “Mental injury” means an injury to the intellectual, emotional, or psychological capacity or functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health professional or medical professional.

(18)(19) “Party in interest” includes the child, the child's attorney and guardian ad litem, the natural parent, an individual with physical or legal custody of the child, the foster parent, and the local foster care review board.

(19)(20) “Person responsible for a child’s welfare” includes the child's parent, guardian, foster parent, an operator, employee, or caregiver, as defined by Section 63‑13‑20, of a public or private residential home, institution, agency, or childcare facility or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a babysitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian. An investigation pursuant to Section 63‑7‑920 must be initiated when the information contained in a report otherwise sufficient under this section does not establish whether the person has assumed the role or responsibility of a parent or guardian for the child.

(20)(21) “Physical custody” means the lawful, actual possession and control of a child.

(21)(22) “Physical injury” means death or permanent or temporary disfigurement or impairment of any bodily organ or function.

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

(23)(24) “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.

(24)(25) “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.

(25)(26) “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.

(26)(27) “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.

(27)(28) “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.

(28)(29) “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.

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

(30)(31) “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.

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

(32)(33) “Legal Guardian” means a person appointed by the court through the judicial establishment of a legal guardianship to become the caretaker of a child.

SECTION 2. Section 63‑9‑1110 of the S.C. Code is amended to read:

Section 63‑9‑1110. (A) Any person may adopt his spouse's child, and any person may adopt a child to whom he is related by blood or marriage. In the adoption of these children:

(1) no investigation or report required under the provisions of Section 63‑9‑520 is required unless otherwise directed by the court;

(2) no accounting by the petitioner of all disbursements required under the provisions of Section 63‑9‑740 is required unless the accounting is ordered by the court;

(3) upon good cause shown, the court may waive the requirement, pursuant to Section 63‑9‑750, that the final hearing must not be held before ninety days after the filing of the adoption petition;

(4) upon good cause shown, the court may waive the requirement, pursuant to Section 63‑9‑320(A)(2), of the appointment of independent counsel for an indigent parent; and

(5) upon good cause shown, the court may waive the requirement, pursuant to Section 63‑9‑60(B)(3), that the adoption proceeding must be finalized in this State.

(B) Subsection (A) is applicable to children in the custody and guardianship of the department who are placed with relatives or fictive kin for the purpose of adoption.

SECTION 3. Sections 63‑7‑2320(D), (E), and (F) of the S.C. Code is amended to read:

Section 63‑7‑2320. (D) The department shall establish, in accordance with this section and the rules and regulations promulgated hereunder, eligibility standards for becoming a kinship foster parent and no other rules, regulations, or standards shall apply.

(1) A person may be eligible for licensure as a kinship foster parent if he is:

(a) a relative within the first, second, or third degree to the parent or stepparent of a child who may be related through blood, marriage, or adoption; or

(b) a person who has been identified by the department as fictive kin.

(2) The kinship foster parent must be twenty‑one years of age or older, except that if the spouse or partner of the relative or fictive kin is twenty‑one years of age or older and living in the home, and the relative or fictive kin is between eighteen and twenty‑one years of age, the department may waive the age requirement eighteen years or older.

(3)(a) A person may become a kinship foster parent only upon the completion of a full kinship foster care licensing study performed in accordance with rules and regulations promulgated pursuant to this section. Residents of the household who are eighteen years of age or older must undergo the state and federal fingerprint review procedures as provided for in Section 63‑7‑2340. The department shall apply the screening criteria in Section 63‑7‑2350 to the results of the fingerprint reviews and the licensing study.

(b) The department shall maintain the confidentiality of the results of fingerprint reviews as provided for in state and federal regulations.

(4) Notwithstanding the requirement that a relative or fictive kin licensed as a kinship foster parent must be licensed in accordance with the same requirements as nonrelative applicants, The department may license relatives and fictive kin using standards that differ from standards applied to unrelated applicants and the department may waive, on a case‑by‑case basis, for relative or fictive kin applicants nonsafety elements as the department deems appropriate. Safety elements, such as criminal and child abuse and neglect background checks required by Title IV‑E of the Social Security Act, 42 U.S.C. Section 671(a)(20)(A), may not be waived. The department may not license a relative or fictive kin as a kinship foster parent or place the child with the relative or fictive kin if the placement would violate any provision of Section 63‑7‑2350. The department shall note on the standard license if there was a waiver of a nonsafety element and identify the element being waived.

(5) The department shall determine, after a thorough review of information obtained in the kinship foster care licensing process, whether the person is able to care effectively for the foster child. The review must take into consideration the parental preference and the preference for placement with a relative or fictive kin who is known to the child and who has a constructive and caring relationship with the child, as provided in Section 63‑7‑1680(E)(1). The review also must take into consideration the preference for the placement with a relative or fictive kin who, but for the removal of the child at birth, would have had a constructive and caring relationship with the child, based on the relative's or fictive kin's fitness and ability to care for the child.

(E)(1) The department shall involve the kinship foster parents in development of the child's permanent plan pursuant to Section 63‑7‑1700 and other plans for services to the child and the kinship foster home. The department shall give notice of proceedings and information to the kinship foster parent as provided for elsewhere in this chapter for other foster parents. If planning for the child includes the use of childcare, the department shall pay for childcare arrangements, according to established criteria for payment of these services for foster children. If the permanent plan for the child involves requesting the court to grant custody or guardianship of the child to the kinship foster parent, the department must ensure that it has informed the kinship foster parent about adoption and legal guardianship with supplemental benefits, including services and financial benefits that might be available.

(2) The kinship foster parent shall cooperate with any activities specified in the case plan for the foster child, such as counseling, therapy or court sessions, or visits with the foster child's parents or other family members. Kinship foster parents and placements made in kinship foster care homes are subject to the requirements of Section 63‑7‑2310.

(F)(1) If a relative or fictive kin is not licensed as a kinship foster parent, then the department may still place the child with the relative or fictive kin notwithstanding the licensure requirement contained in this section if placement would serve the child’s best interests.:

(a) the relative or fictive kin begins the kinship foster parent licensure process within a reasonable time after the placement of the child; and

(b)(i) the child has been removed from his home and is in the care, custody, or guardianship of the department, as provided in subsection (C), and the department determines that it is in the best interest of the child to be placed with a relative or fictive kin for foster care; or

(ii) a relative or fictive kin advises the department that the relative or fictive kin is interested in providing placement for the child requiring foster care.

(2) During the licensure process, a relative or fictive kin with whom a child has been placed pursuant to item (1) and who has begun the kinship licensure process shall have the same legal status and access to services as a licensed kinship foster care provider including, but not limited to, the availability of payments and other services.

SECTION 4. Section 63‑7‑2350(F) of the S.C. Code is amended to read:

Section 63‑7‑2350. (F) Notwithstanding the provisions in this section, in the discretion of the department when it is in a child's best interest, a child may be placed in the home of a kin or fictive kin caregiver who has been convicted of or has plead guilty or nolo contendere to a criminal offense described in this section enumerated in subsection (A) if more than five years have elapsed since the conviction, guilty plea, or nolo contendere plea and the that criminal offense was not a violent crime as defined in Section 16‑1‑60 or a felony involving violence including, but not limited to, child abuse and neglect, domestic violence, or any crime against a child.

SECTION 5. Section 63‑7‑2400(B) of the S.C. Code is amended to read:

Section 63‑7‑2400. (B) No more than two of the five foster children referenced in subsection (A) may be classified as therapeutic foster care placements unless one of the exceptions in subsection (A) applies. If one of the exceptions applies, no more than three of the five foster children may be classified as therapeutic foster care placements. The limitations on therapeutic foster care placements do not apply to kinship foster care placements.

SECTION 6. This act takes effect upon approval by the Governor.

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