

South Carolina General Assembly
121st Session, 2015-2016

A268, R227, S916

STATUS INFORMATION

General Bill

Sponsors: Senators Malloy, Fair and M.B. Matthews

Document Path: I:\s-jud\bill\malloy\jud0077.jjg.docx

Introduced in the Senate on January 13, 2016

Introduced in the House on May 3, 2016

Last Amended on May 4, 2016

Passed by the General Assembly on May 24, 2016

Governor's Action: June 6, 2016, Signed

Summary: Juvenile Justice Code definitions

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/2/2015	Senate	Prefiled
12/2/2015	Senate	Referred to Committee on Judiciary
1/13/2016	Senate	Introduced and read first time (Senate Journal-page 30)
1/13/2016	Senate	Referred to Committee on Judiciary (Senate Journal-page 30)
2/11/2016	Senate	Referred to Subcommittee: Malloy (ch), Campsen, Hembree
4/13/2016	Senate	Committee report: Favorable with amendment Judiciary (Senate Journal-page 16)
4/14/2016		Scrivener's error corrected
4/27/2016	Senate	Committee Amendment Amended and Adopted (Senate Journal-page 46)
4/27/2016	Senate	Read second time (Senate Journal-page 46)
4/27/2016	Senate	Roll call Ayes-42 Nays-0 (Senate Journal-page 46)
4/28/2016	Senate	Read third time and sent to House (Senate Journal-page 30)
4/28/2016		Scrivener's error corrected
5/3/2016	House	Introduced and read first time (House Journal-page 11)
5/3/2016	House	Referred to Committee on Judiciary (House Journal-page 11)
5/3/2016	House	Recalled from Committee on Judiciary (House Journal-page 23)
5/4/2016	House	Amended (House Journal-page 14)
5/4/2016	House	Read second time (House Journal-page 14)
5/4/2016	House	Roll call Yeas-102 Nays-0 (House Journal-page 15)
5/4/2016		Scrivener's error corrected
5/5/2016		Scrivener's error corrected
5/5/2016	House	Read third time and returned to Senate with amendments (House Journal-page 141)
5/24/2016	Senate	Concurred in House amendment and enrolled (Senate Journal-page 110)
5/24/2016	Senate	Roll call Ayes-37 Nays-0 (Senate Journal-page 110)
6/2/2016		Ratified R 227
6/6/2016		Signed By Governor
6/16/2016		Effective date See Act for Effective Date
6/17/2016		Act No. 268

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VERSIONS OF THIS BILL

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(A268, R227, S916)

AN ACT TO AMEND SECTION 63-3-510, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, SO AS TO RAISE THE AGE THAT A PERSON IS CONSIDERED A CHILD FOR PURPOSES OF DELINQUENCY MATTERS BEFORE THE FAMILY COURT; TO AMEND SECTION 63-19-20, RELATING TO THE DEFINITION OF “CHILD” OR “JUVENILE” , SO AS TO MEAN A PERSON UNDER THE AGE OF EIGHTEEN YEARS, WITH EXCEPTIONS; TO AMEND SECTIONS 63-19-1030, 63-19-1210, 63-19-1410, 63-19-1420, 63-19-1440, AS AMENDED, 63-19-1850, AS AMENDED, AND 63-19-2050, AS AMENDED, ALL RELATING TO JUVENILE DELINQUENCY PROCEEDINGS IN THE FAMILY COURT, SO AS TO RAISE AGE LIMITATIONS TO CONFORM WITH SECTIONS 63-3-510 AND 63-19-20; AND TO REQUIRE CERTAIN STATE AGENCIES TO COLLECT DATA AND SUBMIT A REPORT ADDRESSING THE FISCAL IMPACT OF RAISING THE AGE THAT A PERSON IS CONSIDERED A CHILD FOR PURPOSES OF DELINQUENCY MATTERS BEFORE THE FAMILY COURT.

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

Jurisdiction of the family court, age limitations

SECTION 1. Section 63-3-510 of the 1976 Code is amended to read:

“Section 63-3-510. (A) Except as otherwise provided herein, the court shall have exclusive original jurisdiction and shall be the sole court for initiating action:

(1) Concerning any child living or found within the geographical limits of its jurisdiction:

(a) who is neglected as to proper or necessary support or education as required by law, or as to medical, psychiatric, psychological, or other care necessary to his well-being, or who is abandoned by his parent or other custodian;

(b) whose occupation, behavior, condition, environment, or associations are such as to injure or endanger his welfare or that of others;

(c) who is beyond the control of his parent or other custodian;

(d) who is alleged to have violated or attempted to violate any state or local law or municipal ordinance, regardless of where the violation occurred except as provided in Section 63-3-520;

(e) whose custody is the subject of controversy, except in those cases where the law now gives other courts concurrent jurisdiction. In the consideration of these cases, the court shall have concurrent jurisdiction to hear and determine the issue of custody and support.

(2) For the treatment or commitment to any mental institution of a mentally defective or mentally disordered or emotionally disturbed child. Provided, that nothing herein is intended to conflict with the authority of probate courts in dealing with mental cases.

(3) Concerning any person eighteen years of age or over, living or found within the geographical limits of the court's jurisdiction, alleged to have violated or attempted to violate any state or local law or municipal ordinance prior to having become eighteen years of age and such person shall be dealt with under the provisions of this title relating to children.

(4) For the detention of a juvenile in a juvenile detention facility who is charged with committing a criminal offense when detention in a secure facility is found to be necessary pursuant to the standards set forth in Section 63-19-820 and when the facility exists in, or is otherwise available to, the county in which the crime occurred.

(B) Whenever the court has acquired the jurisdiction of any child under eighteen years of age, jurisdiction continues so long as, in the judgment of the court, it may be necessary to retain jurisdiction for the correction or education of the child, but jurisdiction shall terminate when the child attains the age of twenty-two years. Any child who has been adjudicated delinquent and placed on probation by the court remains under the authority of the court only until the expiration of the specified term of his probation. This specified term of probation may expire before but not after the twentieth birthday of the child."

Juvenile justice code definitions

SECTION 2. Section 63-19-20(1) of the 1976 Code is amended to read:

“(1) ‘Child’ or ‘juvenile’ means a person less than eighteen years of age. ‘Child’ or ‘juvenile’ does not mean a person seventeen 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 seventeen 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.”

Family court hearing requirements, age limitations for juveniles

SECTION 3. 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 eighteen 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.”

Transfer of jurisdiction from family to circuit court, age limitations

SECTION 4. Section 63-19-1210 of the 1976 Code is amended to read:

“Section 63-19-1210. In accordance with the jurisdiction granted to the family court pursuant to Sections 63-3-510, 63-3-520, and 63-3-530, jurisdiction over a case involving a child must be transferred or retained as follows:

- (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 eighteen 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.

(2) Whenever a child is brought before a magistrate or city recorder and, in the opinion of the magistrate or city recorder, the child should be brought to the family court of competent jurisdiction under the provisions of this section, the magistrate or city recorder shall transfer the case to the family court and direct that the child involved be taken there.

(3) When an action is brought in a circuit court which, in the opinion of the judge, falls within the jurisdiction of the family court, he may transfer the action upon his own motion or the motion of any party.

(4) If a child seventeen years of age or older is charged with an offense which, if committed by an adult, would be a misdemeanor, a Class E or F felony as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of ten years or less, and if the court, after full investigation, considers it contrary to the best interest of the child or of the public to retain jurisdiction, the court, in its discretion, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult.

(5) If a child fourteen, fifteen, or sixteen years of age is charged with an offense which, if committed by an adult, would be 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, the court, after full investigation and hearing, may determine it contrary to the best interest of the child or of the public to retain jurisdiction. The court, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(6) Within thirty days after the filing of a petition in the family court alleging the child has committed the offense of murder or criminal sexual conduct, the person executing the petition may request in writing that the case be transferred to the court of general sessions with a view to proceeding against the child as a criminal rather than as a child coming within the purview of this chapter. The judge of the family court is authorized to determine this request. If the request is denied, the petitioner may appeal within five days to the circuit court. Upon the hearing of the appeal, the judge of the circuit court is vested with the discretion of exercising and asserting the jurisdiction of the court of

general sessions or of relinquishing jurisdiction to the family court. If the circuit judge elects to exercise the jurisdiction of the general sessions court for trial of the case, he shall issue an order to that effect, and then the family court has no further jurisdiction in the matter.

(7) Once the family court relinquishes its jurisdiction over the child and the child is bound over to be treated as an adult, Section 63-19-2020 dealing with the confidentiality of identity and fingerprints does not apply.

(8) When jurisdiction is relinquished by the family court in favor of another court, the court shall have full authority and power to grant bail, hold a preliminary hearing and any other powers as now provided by law for magistrates in such cases.

(9) If a child fourteen years of age or older is charged with a violation of Section 16-23-430, Section 16-23-20, or Section 44-53-445, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(10) If a child fourteen years of age or older is charged with an offense which, if committed by an adult, provides for a term of imprisonment of ten years or more and the child previously has been adjudicated delinquent in family court or convicted in circuit court for two prior offenses which, if committed by an adult, provide for a term of imprisonment of ten years or more, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult. For the purpose of this item, an adjudication or conviction is considered a second adjudication or conviction only if the date of the commission of the second offense occurred subsequent to the imposition of the sentence for the first offense.”

Adjudication of juveniles in family court, age limitations

SECTION 5. Section 63-19-1410(A) of the 1976 Code is amended to read:

“(A) When a child is found by decree of the court to be subject to this chapter, the court shall in its decree make a finding of the facts upon which the court exercises its jurisdiction over the child. Following the decree, the court by order may:

(1) cause a child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist, or psychologist and for that purpose place the child in a hospital or other suitable facility;

(2) order care and treatment as it considers best, except as otherwise provided in this section and may designate a state agency as the lead agency to provide a family assessment to the court. The assessment shall include, but is not limited to, the strengths and weaknesses of the family, problems interfering with the functioning of the family and with the best interests of the child, and recommendations for a comprehensive service plan to strengthen the family and assist in resolving these issues.

The lead agency shall provide the family assessment to the court in a timely manner, and the court shall conduct a hearing to review the proposed plan and adopt a plan as part of its order that will best meet the needs and best interest of the child. In arriving at a comprehensive plan, the court shall consider:

(a) additional testing or evaluation that may be needed;

(b) economic services including, but not limited to, employment services, job training, food stamps, and aid to families with dependent children;

(c) counseling services including, but not limited to, marital counseling, parenting skills, and alcohol and drug abuse counseling; and

(d) any other programs or services appropriate to the child's and family's needs.

The lead agency is responsible for monitoring compliance with the court-ordered plan and shall report to the court as the court requires. In support of an order, the court may require the parents or other persons having custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter to do or omit to do acts required or forbidden by law, when the judge considers the requirement necessary for the welfare of the child. In case of failure to comply with the requirement, the court may proceed against those persons for contempt of court;

(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 twentieth 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;

(4) order the child to participate in a community mentor program as provided in Section 63-19-1430;

(5) commit the child to the custody or to the guardianship of a public or private institution or agency authorized to care for children or to place them in family homes or under the guardianship of a suitable person. Commitment must be for an indeterminate period but in no event beyond the child's twenty-second birthday;

(6) require that a child under twelve years of age who is adjudicated delinquent for an offense listed in Section 23-3-430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was adjudicated; and

(7) dismiss the petition or otherwise terminate its jurisdiction at any time on the motion of either party or on its own motion."

Driver's license restrictions for delinquent juveniles, age limitations

SECTION 6. Section 63-19-1420 of the 1976 Code is amended to read:

“Section 63-19-1420. (A) If a child is adjudicated delinquent for a status offense or is found in violation of a court order relating to a status offense, the court may suspend or restrict the child's driver's license until the child's eighteenth birthday.

(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 twentieth birthday.

(C) If the court suspends the child's driver's license, the child must submit the license to the court, and the court shall forward the license to the Department of Motor Vehicles for license suspension. However, convictions not related to the operation of a motor vehicle shall not result in increased insurance premiums.

(D) If the court restricts the child's driver's license, the court may restrict the child's driving privileges to driving only to and from school or to and from work or as the court considers appropriate. Upon the court restricting a child's driver's license, the child must submit the license to the court and the court shall forward the license to the Department of Motor Vehicles for reissuance of the license with the restriction clearly noted.

(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 if subsection (B) applies.

(F) Upon suspending or restricting a child's driver's license under this section, the family court judge shall complete a form provided by and which must be remitted to the Department of Motor Vehicles.”

Commitment of juveniles to the Department of Juvenile Justice, age limitations

SECTION 7. Section 63-19-1440 of the 1976 Code, as last amended by Act 227 of 2012, is further amended to read:

“Section 63-19-1440. (A) A child, after the child's twelfth birthday and before the eighteenth birthday or while under the jurisdiction of the family court for disposition of an offense that occurred prior to the child's eighteenth 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 eighteen years may be committed or sentenced to any other penal or correctional institution of this State.

(B) All commitments to the custody of the Department of Juvenile Justice for delinquency as opposed to the conviction of a specific crime may be made only for the reasons and in the manner prescribed in Sections 63-3-510, 63-3-520, 63-3-580, 63-3-600, 63-3-650, and this chapter, with evaluations made and proceedings conducted only by the judges authorized to order commitments in this section. When a child is committed to the custody of the department, commitment must be for an indeterminate sentence, not extending beyond the twenty-second birthday of the child unless sooner released by the department, or for a determinate commitment sentence not to exceed ninety days.

(C) The court, before committing a child as a delinquent or as a part of a sentence including commitments for contempt, shall order a community evaluation or temporarily commit the child to the Department of Juvenile Justice for not more than forty-five days for evaluation. A community evaluation is equivalent to a residential evaluation, but it is not required to include all components of a residential evaluation. However, in either evaluation the department shall make a recommendation to the court on the appropriate disposition of the case and shall submit that recommendation to the court before final disposition. The department is authorized to allow any child adjudicated delinquent for a status offense, a misdemeanor offense, or violation of probation or contempt for any offense who is temporarily committed to the department's custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child must not be conducted because the child presents an unreasonable flight or public safety risk to his home community. The court may waive in writing the evaluation of the child and proceed to issue final disposition in the case if the child:

(1) has previously received a residential evaluation or a community evaluation and the evaluation is available to the court;

(2) has been within the past year temporarily or finally discharged or conditionally released for parole from a correctional institution of the department, and the child's previous evaluation or other equivalent information is available to the court; or

(3) receives a determinate commitment sentence not to exceed ninety days.

(D) When a juvenile is adjudicated delinquent or convicted of a crime or has entered a plea of guilty or nolo contendere in a court authorized to commit to the custody of the Department of Juvenile Justice, the juvenile may be committed for an indeterminate period until the juvenile has reached age twenty-two or until sooner released by the releasing entity or released by order of a judge of the Supreme Court or the circuit court of this State, rendered at chambers or otherwise, in a proceeding in the nature of an application for a writ of habeas corpus. A juvenile who has not been paroled or otherwise released from the custody of the department by the juvenile's nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. If not sooner released by the releasing entity, the juvenile must be released by age twenty-two according to the provisions of the juvenile's commitment; however, notwithstanding the above provision, any 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.

(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 eighteenth 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-second 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.

(F) Notwithstanding subsections (A) and (E), a child may be committed to the custody of the Department of Juvenile Justice or to a secure evaluation center operated by the department for a determinate period not to exceed ninety days when:

(1) the child has been adjudicated delinquent by a family court judge for a status offense, as defined in Section 63-19-20, excluding truancy, and the order acknowledges that the child has been afforded all due process rights guaranteed to a child offender;

(2) the child is in contempt of court for violation of a court order to attend school or an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 63-19-20; or

(3) the child is determined by the court to have violated the conditions of probation set forth by the court in an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 63-19-20 including truancy.

Orders issued pursuant to this subsection must acknowledge:

(a) that the child has been advised of all due process rights afforded to a child offender; and

(b) that the court has received information from the appropriate state or local agency or public entity that has reviewed the facts and circumstances causing the child to be before the court.

(G) A child committed under this section may not be confined with a child who has been determined by the department to be violent.

(H) After having served at least two-thirds of the time ordered by a court, a child committed to the Department of Juvenile Justice for a determinate period pursuant to this section may be released by the department prior to the expiration of the determinate period for 'good behavior' as determined by the department. The court, in its discretion, may state in the order that the child is not to be released prior to the expiration of the determinate period ordered by the court.

(I) Juveniles detained in any temporary holding facility or juvenile detention center or who are temporarily committed for evaluation to a Department of Juvenile Justice evaluation center for the offense for which they were subsequently committed by the family court to the custody of the Department of Juvenile Justice shall receive credit toward their parole guidelines, if indeterminately sentenced, or credit toward their date of release, if determinately sentenced, for each day they are detained in or temporarily committed to any secure pre-dispositional facility, center, or program."

Conditional release of juveniles, age limitations

SECTION 8. Section 63-19-1850(A) of the 1976 Code, as last amended by Act 151 of 2010, is further amended to read:

“(A)A juvenile who shall have been conditionally released from a correctional facility shall remain under the authority of the releasing entity until the expiration of the specified term imposed in the juvenile's conditional aftercare release. The specified period of conditional release may expire before but not after the twenty-second birthday of the juvenile. Each juvenile conditionally released is subject to the conditions

and restrictions of the release and may at any time on the order of the releasing entity be returned to the custody of a correctional institution for violation of aftercare rules or conditions of release. The conditions of release must include the requirement that the juvenile parolee must permit the search or seizure, without a search warrant, with or without cause, of the juvenile parolee's person, any vehicle the juvenile parolee owns or is driving, and any of the juvenile parolee's possessions by:

- (1) his aftercare counselor;
- (2) any probation agent employed by the Department of Probation, Parole and Pardon Services; or
- (3) any other law enforcement officer.

However, the conditions of release of a juvenile parolee who was adjudicated delinquent of a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the juvenile parolee agree to be subject to search or seizure, without a search warrant, with or without cause, of the juvenile parolee's person, any vehicle the juvenile parolee owns or is driving, or any of the juvenile parolee's possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure conducted pursuant to this subsection, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole or probation or that the individual is currently subject to the provisions of his conditional release. A law enforcement officer conducting a search or seizure without a warrant pursuant to this subsection shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this subsection, he is subject to discipline pursuant to the employing agency's policies and procedures."

Expungement orders in family court, age limitations

SECTION 9. Section 63-19-2050(C) of the 1976 Code, as last amended by Act 22 of 2015, is further amended to read:

“(C)(1) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense, the court shall grant the expungement order. If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed multiple status offenses, the court may grant an expungement order for the multiple status offenses.

(2) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a nonviolent crime, as defined in Section 16-1-70, the court may grant the expungement order.

(3) The court shall not grant the expungement order unless the court finds that the person is at least eighteen 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.”

Data collection and reporting requirements

SECTION 10. South Carolina Court Administration shall consult with the South Carolina Commission on Indigent Defense, South Carolina Commission on Prosecution Coordination, South Carolina Department of Corrections, South Carolina Department of Juvenile Justice, and South Carolina Department of Probation, Parole and Pardon Services to determine data and statistics that should be collected relevant to determining the fiscal and revenue impact of this act. All state and local agencies and courts shall collect the relevant data and statistics from July 1, 2016, through June 30, 2017, and transmit the data and statistics to court administration pursuant to court administration’s instructions. Court administration shall collect the relevant data and statistics and make a report to the General Assembly by September 1, 2017.

Savings clause

SECTION 11. 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.

Time effective

SECTION 12. Section 10 of this act takes effect upon approval by the Governor. Sections 1 through 9 and Section 11 of this act take effect on July 1, 2019, contingent upon the Department of Juvenile Justice having received any funds that may be necessary for implementation. If the report submitted to the General Assembly on September 1, 2017, reflects any additional funds needed by the Department of Juvenile Justice to ensure implementation will be possible on July 1, 2019, the department shall include these funds in its budget requests to the General Assembly as part of Fiscal Years 2017-2018 and 2018-2019. Beginning on September 1, 2017, all state and local agencies and courts involved with the implementation of the provisions of this act may begin undertaking and executing any and all applicable responsibilities so that the provisions of this act may be fully implemented on July 1, 2019.

Ratified the 2nd day of June, 2016.

Approved the 6th day of June, 2016.