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COMMITTEE REPORT

April 22, 2009

**H. 3118**

Introduced by Reps. Kirsh, J.E. Smith and Funderburk

S. Printed 4/22/09--H.

Read the first time January 13, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3118) to amend Section 63‑11‑530, Code of Laws of South Carolina, 1976, relating to the powers and duties of guardians ad litem in child abuse and neglect, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by deleting SECTION 1 of the bill and inserting:

/SECTION 1. Section 63‑11‑530(A) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(A)(1) The guardian ad litem is charged in general with the duty of representation of the child’s best interests. After appointment by the family court to a case involving an abused or neglected child, the guardian ad litem shall receive appropriate notice of all court hearings and proceedings regarding the child. The obligation of the guardian ad litem to the court is a continuing one and continues until formally relieved by the court.

(2) The South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63‑11‑500, whichever is appropriate, may intervene in an abuse or neglect proceeding in order to petition the court to relieve the volunteer, lay guardian ad litem from appointment for the following reasons:

(a) incapacity;

(b) conflict of interest;

(c) misconduct;

(d) persistent neglect of duties;

(e) incompetence; or

(f) a knowing and wilful violation of program policies and procedures that affect the health, safety, and welfare of the child.

(3) The court shall determine what is in the best interest of the child when ruling on the petition.”/

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 63‑11‑530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF GUARDIANS AD LITEM IN CHILD ABUSE AND NEGLECT CASES, SO AS TO PROVIDE THAT THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM HAS THE RIGHT TO INTERVENE IN A PROCEEDING TO PETITION TO HAVE THE GUARDIAN AD LITEM REMOVED IF THE GUARDIAN AD LITEM IS NOT IN COMPLIANCE WITH STATE LAW OR IS NOT ACTING IN THE BEST INTEREST OF THE CHILD; AND TO AMEND SECTION 63‑11‑550, RELATING TO CONFIDENTIALITY OF REPORTS AND INFORMATION MAINTAINED BY THE GUARDIAN AD LITEM PROGRAM, SO AS TO ALSO PROVIDE THAT REPORTS AND INFORMATION MAINTAINED BY A GUARDIAN AD LITEM IS CONFIDENTIAL.

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

SECTION 1. Section 63‑11‑530(A) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(A)(1) The guardian ad litem is charged in general with the duty of representation of the child’s best interests. After appointment by the family court to a case involving an abused or neglected child, the guardian ad litem shall receive appropriate notice of all court hearings and proceedings regarding the child. The obligation of the guardian ad litem to the court is a continuing one and continues until formally relieved by the court.

(2) The South Carolina Guardian ad Litem Program may intervene in an abuse or neglect proceeding in order to petition the court to relieve a guardian ad litem from appointment when, in the program’s opinion, the guardian ad litem is violating the provisions of this subarticle or is, otherwise, acting contrary to the best interests of the child.”

SECTION 2. Section 63‑11‑550(A) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(A) All reports and information collected pursuant to this article maintained by the South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63‑11‑500(B) or by a guardian ad litem, are confidential except as provided for in Section 63‑7‑1990(C). A person who disseminates or permits the unauthorized dissemination of the information is guilty of contempt of court and, upon conviction, may be fined or imprisoned, or both, pursuant to Section 63‑3‑620.”

SECTION 3. This act takes effect upon approval by the Governor.

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