**South Carolina General Assembly**

119th Session, 2011-2012

**S. 822**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Fair, Hutto, Jackson and Rose

Document Path: l:\council\bills\nbd\11581ac11.docx

Introduced in the Senate on April 14, 2011

Currently residing in the Senate Committee on **Judiciary**

Summary: Criminal child death offender registry

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/14/2011 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h:\sj%20archive\2011\04-14-11.docx))

4/14/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 6](file:///h:\sj%20archive\2011\04-14-11.docx))

1/9/2012 Senate Referred to Subcommittee: Sheheen (ch), Knotts, Campsen, Lourie, Campbell

**VERSIONS OF THIS BILL**

[4/14/2011](file:///p:\pprever\2011-12\822_20110414.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SUBARTICLE 15 TO ARTICLE 3, CHAPTER 7, TITLE 63 SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO MAINTAIN A CRIMINAL CHILD DEATH OFFENDER REGISTRY, AVAILABLE TO THE PUBLIC, OF PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES RESULTING IN THE DEATH OF A CHILD; TO SPECIFY INFORMATION THAT MUST BE CONTAINED IN THE REGISTRY; TO SPECIFY INFORMATION THAT MUST NOT BE RELEASED BY THE DEPARTMENT; TO PROVIDE FOR THE REMOVAL OF A PERSON FROM THE REGISTRY IN CERTAIN CIRCUMSTANCES; AND TO PROVIDE IMMUNITY FOR PUBLIC OFFICIALS, EMPLOYEES, AND AGENCIES FOR ACTS OR OMISSIONS OCCURRING PURSUANT TO THIS SUBARTICLE, UNLESS THE CONDUCT CONSTITUTES GROSS NEGLIGENCE; AND TO AMEND SECTION 15‑49‑10, AS AMENDED, RELATING TO DOCUMENTATION THAT A PERSON MUST PROVIDE TO A COURT WHEN PETITIONING FOR A NAME CHANGE, SO AS TO INCLUDE A SCREENING STATEMENT FROM THE DEPARTMENT OF SOCIAL SERVICES REGARDING WHETHER THE PERSON IS ON THE CRIMINAL CHILD DEATH OFFENDER REGISTRY AND TO REQUIRE THE COURT TO NOTIFY THE DEPARTMENT WHEN A PERSON ON THE REGISTRY OBTAINS A NAME CHANGE.

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

SECTION 1. Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Subarticle 15

Criminal Child Death Offender Registry

Section 63‑7‑2100. The purpose of this subarticle is to promote the state’s fundamental right to provide for the public health, welfare, and safety of its children. Notwithstanding this legitimate state purpose, these provisions are not intended to violate the guaranteed constitutional rights of those who have violated our nation’s laws.

Section 63‑7‑2110. For purposes of this subarticle:

(1) ‘Child’ means a person under the age of eighteen when a crime was committed resulting in his or her death.

(2) ‘Department’ means the Department of Social Services.

(3) ‘Resident’ means a person who has remained in this State for a total of thirty days during the twelve‑month period preceding the person committing an offense enumerated in Section 63‑7‑2120(B)(2).

Section 63‑7‑2120. (A) The Department of Social Services shall maintain a Criminal Child Death Offender Registry in accordance with this subarticle. The department shall develop and operate the registry to collect, analyze, and maintain information on offenders who are criminally responsible for the death of a child and to make the registry available to the general public on the department’s website or upon request.

(B) A person must be listed on the Criminal Child Death Offender Registry if the person:

(1) was a resident eighteen years of age or older at the time of committing an offense in this State enumerated in item (2) that resulted in the death of a child; and

(2) has been convicted of or pled guilty to or pled nolo contendere to:

(a) murder, as provided for in Section 16‑3‑10;

(b) manslaughter, as provided for in Section 16‑3‑50; this does not include involuntary manslaughter; or

(c) homicide by child abuse, as provided for in Section 16‑3‑85(A)(1) or (A)(2).

(C) If a person has been convicted of or pleads guilty to or nolo contendere to an offense enumerated in subsection (B)(2), the court shall order that the person be listed on the Criminal Child Death Offender Registry. The clerk shall forward the following information to the department in accordance with guidelines adopted by the department in consultation with the Judicial Department:

(1) the person’s name, date of birth, and a current photograph;

(2) the crime the person committed, the age of the child victim, and the date of conviction;

(3) the city where the person resided at the time of the conviction.

(D) The department must not release information:

(1) that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law;

(2) identifying the victim or the victim’s siblings or family;

(3) that would jeopardize a criminal investigation or proceeding.

Section 63‑7‑2130. (A) The department shall remove a person’s name and any other information concerning that person from the Criminal Child Death Offender Registry immediately upon notification by the Attorney General that the person’s conviction, guilty plea, or plea of nolo contendere for an offense enumerated in Section 63‑7‑2120(B)(2) was reversed, overturned, or vacated on appeal, and a final judgment has been rendered.

(B)(1) If a person receives a pardon for the offense for which he was required to be placed on the Criminal Child Death Offender Registry, the person may not be removed from the registry except:

(a) as provided by the provisions of subsection (A); or

(b) if the pardon is based on a finding of not guilty specifically stated in the pardon and the person provides a copy of the pardon certificate to the department.

(2) Information provided by a person seeking to be removed from the registry must be verified by the department.

(C)(1) If a person files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the person may not be removed from the Criminal Child Death Offender Registry except:

(a) as provided by the provisions of subsection (A); or

(b) if the circuit court grants the offender’s petition or motion and orders a new trial, and a verdict of acquittal is returned at the new trial or entered with the state’s consent.

(2) If the person is acquitted of the offense pursuant to item (b) of subsection (C)(1), the court shall order that the person be removed from the Criminal Child Death Offender Registry, and the clerk shall forward a copy of the order to the department.

(3) Information provided by a person seeking to be removed from the registry must be verified by the department.

Section 63‑7‑2140. (A) An appointed or elected public official, public employee, or public agency is immune from civil liability for damages for any act or omission under this subarticle unless the official’s, employee’s, or agency’s conduct constitutes gross negligence.

(B) Nothing in this subarticle imposes an affirmative duty on a person to disclose to a member of the public information for the Criminal Child Death Offender Registry other than on those persons responsible for providing registry information pursuant to their official duties as provided for in this subarticle.

(C) Nothing in this section may be construed to mean that information regarding persons on the Criminal Child Death Offender Registry is confidential except as otherwise may be provided by law.”

SECTION 2. Section 15‑49‑20(A) of the 1976 Code, as last amended by Act 346 of 2002, is further amended by adding an appropriately numbered item at the end to read:

“( ) a screening statement from the Department of Social Services that indicates whether the person is listed on the department’s Criminal Child Death Offender Registry. If the person is listed on the registry and the court grants the petition for a name change, the clerk of court shall notify the Department of Social Services of the change so that the department can accurately reflect the change in the registry.”

SECTION 3. This act takes effect January 1, 2012.

‑‑‑‑XX‑‑‑‑