~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 29, 2012

**S. 1054**

Introduced by Senators Rose and Ford

S. Printed 2/29/12--S.

Read the first time January 10, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1054) to amend Section 63‑7‑310, as amended, Code of Laws of South Carolina, 1976, relating to persons required to report suspected child abuse or 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 striking the bill in its entirety and inserting:

/ SECTION 1. Section 63‑7‑310 of the 1976 Code, as last amended by Act 227 of 2010, is further amended to read:

“Section 63-7-310. (A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63‑7‑20.

(B) A person, other than a minor and other than those individuals who are required to report child abuse or neglect pursuant to subsection (A), who has received information that gives the person reason to believe that a minor has been or may be the victim of a sexual offense as defined by Title 16 must report in accordance with this section, unless otherwise excluded by law or by rules of professional conduct.

~~(B)~~(C) If a person required to report pursuant to subsection (A) and subsection (B) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

~~(C)~~(D) Except as provided in subsection (A) and subsection (B), a person, including, but not limited to, a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section.

~~(D)~~(E) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found. Reports of sexual abuse made pursuant to subsection (B) must be made to a law enforcement agency in the county where the child resides or where the act occurred.”

SECTION 2. Section 63‑7‑410 of the 1976 Code is amended to read:

“Section 63‑7‑410. A person required to report a case of child abuse or neglect or a person required to perform any other function ~~under~~ pursuant to this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both. This section does not apply to those individuals required to report pursuant to Section 63-7-310(B).”

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

Renumber sections to conform.

Amend title to conform.

VINCENT A. SHEHEEN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Social Services (DSS)

Changing the law to include more groups that are required to report does not have a fiscal impact. However, the department is unable to determine the fiscal impact of this proposed legislation since there are conflicting sections in this bill. For example, Section 63-7-310(E) requires reporters to report to the county DSS office, while Section 63-7-310(H) requires a twenty-four hour statewide toll-free phone service to receive report of abuse or neglect.

State Department of Education

The department indicates this bill will have no impact on the General Fund of the State or on federal and/or other funds.

**SPECIAL NOTES:**

DSS already has a twenty-four hour statewide toll-free telephone service. Due to the conflicting language as to where the reporter is to call, DSS cannot determine the volume of calls and the cost associated with the service.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 63‑7‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT, SO AS TO EXPAND THE DELINEATED LIST OF PERSONS REQUIRED TO REPORT TO INCLUDE SCHOOL EMPLOYEES, COACHES, CAMP COUNSELORS, ANIMAL CONTROL OFFICERS, FIREFIGHTERS, AND OTHER PERSONS WHOSE DUTIES REQUIRE DIRECT CONTACT OR SUPERVISION OF CHILDREN, TO PROVIDE ANY PERSON MUST REPORT SUSPECTED SEXUAL OR PHYSICAL ABUSE OF A CHILD, TO PROVIDE THAT BOARD MEMBERS, CHIEF EXECUTIVE OFFICERS, DIRECTORS AND OTHER HEADS OF ORGANIZATIONS, ADMINISTRATORS, AND SUPERVISORS ARE REQUIRED TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT BY A STAFF MEMBER, TO PROVIDE FOR REPORTING TO THE COUNTY DEPARTMENT OF SOCIAL SERVICES UNDER CERTAIN CIRCUMSTANCES AND TO LAW ENFORCEMENT, AND TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO ESTABLISH, OPERATE, AND PUBLICIZE A TWENTY‑FOUR HOUR, STATEWIDE, TOLL‑FREE TELEPHONE NUMBER FOR THE REPORTING OF SUSPECTED CHILD ABUSE OR NEGLECT; AND TO AMEND SECTION 63‑7‑410, RELATING TO THE PENALTIES FOR FAILURE TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT, SO AS TO PROVIDE THAT A PERSON MAY NOT BE ADJUDICATED DELINQUENT FOR FAILURE TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT.

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

SECTION 1. Section 63‑7‑310 of the 1976 Code, as last amended by Act 227 of 2010, is further amended to read:

“Section 63‑7‑310. (A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner’s or coroner’s office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, school attendance officer, school employee or independent contractor, coach, camp counselor, animal control officer, firefighter, social or public assistance worker, substance abuse treatment staff, ~~or~~ childcare worker ~~in a childcare center or foster care facility~~, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, ~~or a volunteer non‑attorney~~ guardian ad litem ~~serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA~~ for a child, or any other employee or volunteer of a public or private organization whose duties require direct contact or supervision of children must report in accordance with this section when in the person’s professional or volunteer capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63‑7‑20. For the purposes of this subsection, ‘school’ means any public or privately operated child care agency, preschool, nursery school, kindergarten, elementary school, middle school, high school, or public or private institution of higher education.

(B) Any person who has received information which gives the person reason to believe that a child has been or may be sexually or physically abused as defined by the laws of the State must report in accordance with this section.

(C) Board members, chief executive officers, directors, other heads of organizations, administrators, and supervisors who have reason to believe that a child has been or may be abused or neglected by a staff member or under the auspices of the organization must report to law enforcement. The report must be made as soon as practicable and may not be superseded by an internal investigation.

(D) Any person not listed in subsection (A) or identified in subsection (B) or (C) is encouraged to report in accordance with this section.

(E) If a person required to report pursuant to subsection (A), (B), or (C) has received information in the person’s professional or volunteer capacity which gives the person reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child’s welfare, ~~but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child’s welfare,~~ the reporter must make a report to the ~~appropriate law enforcement agency~~ county department of social services.

~~(C)~~(F) ~~Except as provided in subsection (A), a person, including, but not limited to, a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section~~ If a person required to report pursuant to subsection (A), (B), or (C) has received information in the person’s professional or volunteer capacity which gives the person reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child’s welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child’s welfare, the reporter must make a report to the appropriate law enforcement agency.

~~(D)~~(G) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found. A person in subsection (A) or (B) who reports abuse or neglect to a supervisor or person in charge of an institution, school, facility, or agency is not relieved of the individual duty to report in accordance with this section.

(H) Notwithstanding any other provision of law, the Department of Social Services must establish, operate, and publicize a twenty‑four hour, statewide, toll‑free telephone service to receive reports pursuant to this section.”

SECTION 2. Section 63‑7‑410 of the 1976 Code is amended to read:

“Section 63‑7‑410. A person required to report a case of child abuse or neglect or a person required to perform any other function ~~under~~ pursuant to this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both. A person may not be adjudicated delinquent pursuant to this section.”

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

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