**South Carolina General Assembly**

120th Session, 2013-2014

**A281, R317, H3102**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Forrester, V.S. Moss, Allison, Atwater and Bingham

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Companion/Similar bill(s): 5

Introduced in the House on January 8, 2013

Introduced in the Senate on April 30, 2013

Last Amended on June 5, 2014

Passed by the General Assembly on June 5, 2014

Governor's Action: June 10, 2014, Signed

Summary: Jaidon's Law

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/11/2012 House Prefiled

12/11/2012 House Referred to Committee on **Judiciary**

1/8/2013 House Introduced and read first time ([House Journal‑page 84](file:///H:\HJ%20Archive\2013\01-08-13.docx))

1/8/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 84](file:///H:\HJ%20Archive\2013\01-08-13.docx))

1/17/2013 House Member(s) request name added as sponsor: V.S.Moss

1/23/2013 House Member(s) request name added as sponsor: Allison

4/9/2013 House Member(s) request name added as sponsor: Atwater

4/24/2013 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 56](file:///H:\HJ%20Archive\2013\04-24-13.docx))

4/25/2013 House Amended ([House Journal‑page 47](file:///H:\HJ%20Archive\2013\04-25-13.docx))

4/25/2013 House Read second time ([House Journal‑page 47](file:///H:\HJ%20Archive\2013\04-25-13.docx))

4/25/2013 House Roll call Yeas‑104 Nays‑0 ([House Journal‑page 51](file:///H:\HJ%20Archive\2013\04-25-13.docx))

4/25/2013 House Unanimous consent for third reading on next legislative day ([House Journal‑page 52](file:///H:\HJ%20Archive\2013\04-25-13.docx))

4/25/2013 House Member(s) request name added as sponsor: Bingham

4/30/2013 Senate Introduced and read first time ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2013\04-30-13.docx))

4/30/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2013\04-30-13.docx))

5/6/2013 Senate Referred to Subcommittee: Sheheen (ch), Corbin, McElveen, Shealy, Thurmond

5/21/2014 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 10](file:///H:\SJ%20Archive\2014\05-21-14.docx))

5/22/2014 Senate Committee Amendment Adopted ([Senate Journal‑page 43](file:///H:\SJ%20Archive\2014\05-22-14.docx))

5/27/2014 Senate Amended ([Senate Journal‑page 16](file:///H:\SJ%20Archive\2014\05-27-14.docx))

5/27/2014 Senate Read second time ([Senate Journal‑page 16](file:///H:\SJ%20Archive\2014\05-27-14.docx))

5/27/2014 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 16](file:///H:\SJ%20Archive\2014\05-27-14.docx))

5/27/2014 Scrivener's error corrected

5/28/2014 Scrivener's error corrected

5/28/2014 Senate Amended ([Senate Journal‑page 70](file:///H:\SJ%20Archive\2014\05-28-14.docx))

5/28/2014 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 70](file:///H:\SJ%20Archive\2014\05-28-14.docx))

5/29/2014 Scrivener's error corrected

5/29/2014 Senate Amended ([Senate Journal‑page 49](file:///H:\SJ%20Archive\2014\05-29-14.docx))

5/29/2014 Senate Read third time and returned to House with amendments ([Senate Journal‑page 49](file:///H:\SJ%20Archive\2014\05-29-14.docx))

5/29/2014 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 49](file:///H:\SJ%20Archive\2014\05-29-14.docx))

5/30/2014 Scrivener's error corrected

6/3/2014 House Senate amendment amended ([House Journal‑page 67](file:///H:\HJ%20Archive\2014\06-03-14.docx))

6/3/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 67](file:///H:\HJ%20Archive\2014\06-03-14.docx))

6/3/2014 House Roll call Yeas‑107 Nays‑0 ([House Journal‑page 69](file:///H:\HJ%20Archive\2014\06-03-14.docx))

6/4/2014 Senate Non‑concurrence in House amendment ([Senate Journal‑page 9](file:///H:\SJ%20Archive\2014\06-04-14.docx))

6/5/2014 House House insists upon amendment and conference committee appointed Reps. Bannister, Weeks, McCoy ([House Journal‑page 2](file:///H:\HJ%20Archive\2014\06-05-14.docx))

6/5/2014 Senate Conference committee appointed Massey, Scott, Young ([Senate Journal‑page 33](file:///H:\SJ%20Archive\2014\06-05-14.docx))

6/5/2014 House Conference report received and adopted ([House Journal‑page 122](file:///H:\HJ%20Archive\2014\06-05-14.docx))

6/5/2014 House Roll call Yeas‑83 Nays‑0 ([House Journal‑page 130](file:///H:\HJ%20Archive\2014\06-05-14.docx))

6/5/2014 Senate Conference report adopted ([Senate Journal‑page 36](file:///H:\SJ%20Archive\2014\06-05-14.docx))

6/5/2014 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 36](file:///H:\SJ%20Archive\2014\06-05-14.docx))

6/5/2014 Senate Ordered enrolled for ratification ([Senate Journal‑page 47](file:///H:\SJ%20Archive\2014\06-05-14.docx))

6/9/2014 Ratified R 317

6/10/2014 Signed By Governor

6/17/2014 Effective date 06/10/14

6/26/2014 Act No. 281

**VERSIONS OF THIS BILL**

[12/11/2012](file:///p:\pprever\2013-14\3102_20121211.docx)

[4/24/2013](file:///p:\pprever\2013-14\3102_20130424.docx)

[4/25/2013](file:///p:\pprever\2013-14\3102_20130425.docx)

[5/21/2014](file:///p:\pprever\2013-14\3102_20140521.docx)

[5/22/2014](file:///p:\pprever\2013-14\3102_20140522.docx)

[5/27/2014](file:///p:\pprever\2013-14\3102_20140527.docx)

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[5/28/2014-A](file:///p:\pprever\2013-14\3102_20140528A.docx)

[5/29/2014](file:///p:\pprever\2013-14\3102_20140529.docx)

[5/29/2014-A](file:///p:\pprever\2013-14\3102_20140529A.docx)

[5/30/2014](file:///p:\pprever\2013-14\3102_20140530.docx)

[6/3/2014](file:///p:\pprever\2013-14\3102_20140603.docx)

[6/5/2014](file:///p:\pprever\2013-14\3102_20140605.docx)

(A281, R317, H3102)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT “JAIDON’S LAW”; TO AMEND SECTION 43‑5‑1285, RELATING TO EVALUATION OF THE SUCCESS AND EFFECTIVENESS OF THE SOUTH CAROLINA FAMILY INDEPENDENCE ACT OF 1995, SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES (DSS) TO REPORT ANNUALLY CERTAIN DATA TO THE GENERAL ASSEMBLY; BY ADDING SECTION 2‑15‑64 SO AS TO REQUIRE THE LEGISLATIVE AUDIT COUNCIL TO AUDIT EVERY THREE YEARS A PROGRAM OF DSS TO BE DETERMINED IN CONSULTATION WITH THE HOUSE JUDICIARY COMMITTEE AND SENATE GENERAL COMMITTEE AND TO AUTHORIZE THE LEGISLATIVE AUDIT COUNCIL TO SEEK REIMBURSEMENT OF AUDIT COSTS FROM DSS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63‑7‑1680, AS AMENDED, RELATING TO A PLACEMENT PLAN FOR A CHILD REMOVED FROM THE CUSTODY OF THE PARENT OR GUARDIAN, SO AS TO ALLOW DSS TO FILE A MOTION WITH THE COURT TO TERMINATE OR SUSPEND VISITATION WITH THE PARENT OR GUARDIAN; TO AMEND SECTION 63‑7‑1690, RELATING TO CONTENTS OF A PLACEMENT PLAN WHEN THE CONDITIONS FOR REMOVAL OF A CHILD FROM THE CUSTODY OF A PARENT INCLUDE CONTROLLED SUBSTANCE ABUSE, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 63‑7‑1710, RELATING TO CIRCUMSTANCES UNDER WHICH DSS IS REQUIRED TO FILE A PETITION TO TERMINATE PARENTAL RIGHTS, SO AS TO ADD COMMITTING, AND AIDING OR ABETTING TO COMMIT, HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT AND WILFUL FAILURE TO COMPLY WITH THE TERMS OF A TREATMENT PLAN OR PLACEMENT PLAN TWICE WITHIN TWELVE MONTHS; TO AMEND SECTION 63‑7‑1940, RELATING TO COURT‑ORDERED ENTRY OF A PERSON IN THE CENTRAL REGISTRY FOR CHILD ABUSE AND NEGLECT, SO AS TO REQUIRE ENTRY IF A NEWBORN INFANT TESTS POSITIVE FOR A CONTROLLED SUBSTANCE, PRESCRIBED DRUG, OR ALCOHOL‑RELATED DIAGNOSIS, IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63‑7‑2570, AS AMENDED, RELATING TO GROUNDS FOR TERMINATION OF PARENTAL RIGHTS, SO AS TO ADD ADDICTION TO ALCOHOL OR ILLEGAL DRUGS OR PRESCRIPTION MEDICATION ABUSE AND COMMITTING MURDER, VOLUNTARY MANSLAUGHTER, OR HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT; TO AMEND SECTION 63‑7‑1700, AS AMENDED, RELATING TO PERMANENCY PLANNING FOR A CHILD, SO AS TO REQUIRE A PARENT TO UNDERGO A DRUG TEST BEFORE RETURNING THE CHILD TO THE HOME IF THE REASON FOR REMOVAL IS RELATED TO DRUG ABUSE BY THE PARENT; TO AMEND SECTION 17‑5‑540, RELATING TO CORONER OR MEDICAL EXAMINER NOTIFICATION OF THE DEPARTMENT OF CHILD FATALITIES, SO AS TO APPLY IN ALL CASES WHEN A CHILD DIES AS A RESULT OF VIOLENCE; AND TO AMEND SECTION 43‑1‑210, AS AMENDED, RELATING TO DSS REPORTING REQUIREMENTS, SO AS TO REQUIRE DSS ANNUALLY TO REPORT CERTAIN DATA TO THE GOVERNOR AND GENERAL ASSEMBLY ADDRESSING CHILD PROTECTION WORKER CASELOADS, TIMELINESS OF CHILD ABUSE AND NEGLECT INVESTIGATIONS, AND TIMELINESS OF CASEWORKER VISITS WITH CHILDREN IN FOSTER CARE.**

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

**Jaidon**’**s Law created**

SECTION 1. This act may be cited as “Jaidon’s Law”.

**Annual reports, Family Independence Program**

SECTION 2. Section 43‑5‑1285 of the 1976 Code, as added by Act 102 of 1995, is amended to read:

“Section 43‑5‑1285. The department shall report annually to the General Assembly on the number of Family Independence families and individuals no longer receiving welfare, the number of individuals who have participated in educational, employment, or training programs under this act, the number of individuals who have completed educational, employment, or training programs under this act, and the number of individuals who have become employed and the duration of their employment.”

**Department of Social Services audits**

SECTION 3. Chapter 15, Title 2 of the 1976 Code is amended by adding:

“Section 2‑15‑64. Beginning December 31, 2013, and every three years thereafter, the Legislative Audit Council shall conduct a management performance audit of a program of the South Carolina Department of Social Services. The program to be reviewed will be determined after consultation with the House of Representatives and the Senate. The Legislative Audit Council is authorized to charge the Department of Social Services for federal funds, if available, for the costs associated with this audit and shall provide certification to the Department of Social Services of certified public expenditures that are eligible for matching federal funds. The Department of Social Services shall remit the federal funds to the Legislative Audit Council as reimbursement for the costs of the audit.”

**Visitation of child in foster care**

SECTION 4. Section 63‑7‑1680(D) of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

“(D) The third section of the plan shall set forth rights and obligations of the parents or guardian while the child is in custody including, but not limited to:

(1) the responsibility of the parents or guardian for financial support of the child during the placement; and

(2) the visitation rights and obligations of the parents or guardian during the placement.

The department may move before the family court for termination or suspension of visits between the parent or guardian and the child. The family court may order termination or suspension of the visits if ongoing contact between the parent or guardian and the child would be contrary to the best interests of the child. This section of the plan must include a notice to the parents or guardian that failure to support or visit the child as provided in the plan may result in termination of parental rights.”

**Placement plan, technical changes**

SECTION 5. Section 63‑7‑1690 of the 1976 Code is amended to read:

“Section 63‑7‑1690. (A) When the conditions justifying removal pursuant to Section 63‑7‑1660 include the addiction of the parent or abuse by the parent of controlled substances, the court may require as part of the placement plan ordered pursuant to Section 63‑7‑1680:

(1) the parent to successfully complete a treatment program operated by the Department of Alcohol and Other Drug Abuse Services or another treatment program approved by the department before return of the child to the home;

(2) any other adult person living in the home who has been determined by the court to be addicted to or abusing controlled substances or alcohol and whose conduct has contributed to the parent’s addiction or abuse of controlled substances or alcohol to successfully complete a treatment program approved by the department before return of the child to the home; and

(3) the parent or other adult, or both, identified in item (2) to submit to random testing for substance abuse and to be alcohol or drug free for a period of time to be determined by the court before return of the child. The parent or other adult identified in item (2) must continue random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court after return of the child before the case will be authorized to be closed.

(B) Results of tests ordered pursuant to this section must be submitted to the department and are admissible only in family court proceedings brought by the department.”

**Termination of parental rights**

SECTION 6. Section 63‑7‑1710(A) of the 1976 Code is amended to read:

“(A) When a child is in the custody of the department, the department shall file a petition to terminate parental rights or shall join as party in a termination petition filed by another party if:

(1) a child has been in foster care under the responsibility of the State for fifteen of the most recent twenty‑two months;

(2) a court of competent jurisdiction has determined the child to be an abandoned infant;

(3) a court of competent jurisdiction has determined that the parent has committed murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(4) a court of competent jurisdiction has determined that the parent has aided, abetted, conspired, or solicited to commit murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(5) a court of competent jurisdiction has determined that the parent has committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent; or

(6) a court of competent jurisdiction has found the parent to be in wilful contempt on two occasions over a twelve‑month period for failure to comply with the terms of the treatment plan or placement plan established pursuant to subarticle 11.”

**Court order, Central Registry of Child Abuse and Neglect**

SECTION 7. Section 63‑7‑1940 of the 1976 Code is amended to read:

“Section 63‑7‑1940. (A) At a hearing pursuant to Section 63‑7‑1650 or 63‑7‑1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:

(1) shall order, without possibility of waiver by the department, that a person’s name be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person:

(a) physically abused the child; however, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person’s name be entered in the central registry if item (2) applies;

(b) sexually abused the child;

(c) wilfully or recklessly neglected the child; or

(d) gave birth to the infant and the infant tested positive for the presence of any amount of controlled substance, prescription drugs not prescribed to the mother, metabolite of a controlled substance, or the infant has a medical diagnosis of neonatal abstinence syndrome, unless the presence of the substance or metabolite is the result of a medical treatment administered to the mother of the infant during birth or to the infant;

(2) may, except as provided for in item (1), order that the person’s name be entered in the central registry if the court finds by a preponderance of evidence that:

(a) the person abused or neglected the child in any manner, including the use of excessive corporal punishment; and

(b) the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if the person were in a position or setting outside of the person’s home that involves care of or substantial contact with children.

(B) At the probable cause hearing, the court may order that the person be entered in the central registry if there is sufficient evidence to support the findings required by subsection (A).”

**Grounds to terminate parental rights**

SECTION 8. Section 63‑7‑2570 of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

“Section 63‑7‑2570. The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

(1) The child or another child while residing in the parent’s domicile has been harmed as defined in Section 63‑7‑20, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve months. In determining the likelihood that the home can be made safe, the parent’s previous abuse or neglect of the child or another child may be considered.

(2) The child has been removed from the parent pursuant to subarticle 3 or Section 63‑7‑1660 and has been out of the home for a period of six months following the adoption of a placement plan by court order or by agreement between the department and the parent and the parent has not remedied the conditions which caused the removal.

(3) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to visit the child. The court may attach little or no weight to incidental visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order. The distance of the child’s placement from the parent’s home must be taken into consideration when determining the ability to visit.

(4) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child’s care. A material contribution consists of either financial contributions according to the parent’s means or contributions of food, clothing, shelter, or other necessities for the care of the child according to the parent’s means. The court may consider all relevant circumstances in determining whether or not the parent has wilfully failed to support the child, including requests for support by the custodian and the ability of the parent to provide support.

(5) The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father.

(6) The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, addiction to alcohol or illegal drugs, prescription medication abuse, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child. It is presumed that the parent’s condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program.

(7) The child has been abandoned as defined in Section 63‑7‑20.

(8) The child has been in foster care under the responsibility of the State for fifteen of the most recent twenty‑two months.

(9) The physical abuse of a child of the parent resulted in the death or admission to the hospital for in‑patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person as provided for in Chapter 3, Title 16, criminal domestic violence as defined in Section 16‑25‑20, criminal domestic violence of a high and aggravated nature as defined in Section 16‑25‑65, or an assault and battery offense as provided in Article 7, Chapter 3, Title 16.

(10) A parent of the child pleads guilty or nolo contendere to or is convicted of the murder of the child’s other parent.

(11) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct when neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.

(12) The parent of the child pleads guilty or nolo contendere to or is convicted of murder, voluntary manslaughter, or homicide by child abuse, of another child of the parent.”

**Reunification of child with parents**

SECTION 9. Section 63‑7‑1700(D) of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

“(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child’s parent would not cause an unreasonable risk of harm to the child’s life, physical health, safety, or mental well‑being, the court shall order the child returned to the child’s parent. The court may order a specified period of supervision and services not to exceed twelve months. When determining whether the child should be returned, the court shall consider all evidence; if the removal of the child from the family was due to drug use by one or both parents, then a drug test must be administered to the parent or both parents, as appropriate, and the results must be considered with all other evidence in determining whether the child should be returned to the parents’ care; and the supplemental report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 63‑7‑1680.”

**Coroner and medical examiner child fatality reporting**

SECTION 10. Section 17‑5‑540 of the 1976 Code is amended to read:

“Section 17‑5‑540. The coroner or medical examiner, within twenty‑four hours or one working day, whichever occurs first, must notify the Department of Child Fatalities when a child dies in the county he serves:

(1) as a result of violence;

(2) in any suspicious or unusual manner; or

(3) when the death is unexpected and unexplained including, but not limited to, possible sudden infant death syndrome.”

**Caseworker and caseload reporting requirements**

SECTION 11. Section 43‑1‑210 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 43‑1‑210. The director shall prepare and submit to the Governor and the General Assembly a full and detailed report of its activities and expenditures annually, including a statement of its personnel and the salaries paid, and shall likewise make such recommendations and suggestions as it shall deem advisable in the execution of its duties to the General Assembly. In addition, this report must include, but is not limited to, the following information:

(1) the monthly total number of cases assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(2) the monthly total number of children assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(3) the monthly total number of children seen by the Department of Social Services within twenty‑four hours of a report of abuse or neglect that were accepted for intake;

(4) the monthly total number of children that were not seen by the Department of Social Services within twenty‑four hours of a report of abuse or neglect;

(5) the total number of children in foster care that were seen by the Department of Social Services each month; and

(6) the total number of children in foster care that were not seen by the Department of Social Services each month.

The Department of Social Services shall prepare and submit this report no later than March first of each year.”

**Time effective**

SECTION 12. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 10th day of June, 2014.

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