**South Carolina General Assembly**

122nd Session, 2017-2018

**A165, R177, H3699**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Putnam, Whipper, Brown, Knight, Henegan and Henderson‑Myers

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Introduced in the House on February 8, 2017

Introduced in the Senate on January 30, 2018

Last Amended on March 22, 2018

Passed by the General Assembly on April 25, 2018

Governor's Action: May 3, 2018, Signed

Summary: Health information

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/8/2017 House Introduced and read first time ([House Journal‑page 26](file:///h%3A%5Chj%5C20170208.docx))

 2/8/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 26](file:///h%3A%5Chj%5C20170208.docx))

 5/4/2017 House Member(s) request name added as sponsor: Whipper, Brown

 5/9/2017 House Member(s) request name added as sponsor: Knight, Henegan

 1/23/2018 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 13](file:///h%3A%5Chj%5C20180123.docx))

 1/25/2018 House Amended ([House Journal‑page 35](file:///h%3A%5Chj%5C20180125.docx))

 1/25/2018 House Read second time ([House Journal‑page 35](file:///h%3A%5Chj%5C20180125.docx))

 1/25/2018 House Roll call Yeas‑104 Nays‑0 ([House Journal‑page 40](file:///h%3A%5Chj%5C20180125.docx))

 1/25/2018 House Unanimous consent for third reading on next legislative day ([House Journal‑page 41](file:///h%3A%5Chj%5C20180125.docx))

 1/25/2018 House Member(s) request name added as sponsor: Henderson‑Myers

 1/26/2018 Scrivener's error corrected

 1/26/2018 House Read third time and sent to Senate ([House Journal‑page 2](file:///h%3A%5Chj%5C20180126.docx))

 1/30/2018 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h%3A%5Csj%5C20180130.docx))

 1/30/2018 Senate Referred to Committee on **General** ([Senate Journal‑page 5](file:///h%3A%5Csj%5C20180130.docx))

 2/28/2018 Senate Committee report: Favorable **General** ([Senate Journal‑page 26](file:///h%3A%5Csj%5C20180228.docx))

 3/22/2018 Senate Amended ([Senate Journal‑page 32](file:///h%3A%5Csj%5C20180322.docx))

 4/17/2018 Senate Read second time ([Senate Journal‑page 15](file:///h%3A%5Csj%5C20180417.docx))

 4/17/2018 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 15](file:///h%3A%5Csj%5C20180417.docx))

 4/18/2018 Senate Read third time and returned to House with amendments ([Senate Journal‑page 21](file:///h%3A%5Csj%5C20180418.docx))

 4/25/2018 House Concurred in Senate amendment and enrolled ([House Journal‑page 74](file:///h%3A%5Chj%5C20180425.docx))

 4/25/2018 House Roll call Yeas‑103 Nays‑0 ([House Journal‑page 75](file:///h%3A%5Chj%5C20180425.docx))

 5/1/2018 Ratified R 177

 5/3/2018 Signed By Governor

 5/11/2018 Effective date 05/03/18

 5/14/2018 Act No. 165

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**VERSIONS OF THIS BILL**

[2/8/2017](file:///p%3A%5Cpprever%5C2017-18%5C3699_20170208.docx)

[1/23/2018](file:///p%3A%5Cpprever%5C2017-18%5C3699_20180123.docx)

[1/24/2018](file:///p%3A%5Cpprever%5C2017-18%5C3699_20180124.docx)

[1/25/2018](file:///p%3A%5Cpprever%5C2017-18%5C3699_20180125.docx)

[1/26/2018](file:///p%3A%5Cpprever%5C2017-18%5C3699_20180126.docx)

[2/28/2018](file:///p%3A%5Cpprever%5C2017-18%5C3699_20180228.docx)

[3/22/2018](file:///p%3A%5Cpprever%5C2017-18%5C3699_20180322.docx)

(A165, R177, H3699)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 63‑7‑765, 63‑7‑770, AND 63‑9‑80 SO AS TO ALLOW FOR THE DISCLOSURE OF PERSONAL HEALTH INFORMATION ABOUT A CHILD TO CERTAIN CAREGIVERS AS PART OF CHILD PROTECTION OR ADOPTION PROCEEDINGS; TO AMEND SECTION 63‑7‑1990, RELATING TO CONFIDENTIALITY OF CHILD ABUSE OR NEGLECT RECORDS, SO AS TO AUTHORIZE THE DEPARTMENT OF SOCIAL SERVICES TO RELEASE RECORDS CONTAINING PERSONAL HEALTH INFORMATION ABOUT THE CHILD TO CERTAIN CAREGIVERS; AND TO AMEND SECTION 63‑7‑2370, RELATING TO THE DISCLOSURE OF CERTAIN INFORMATION ABOUT A FOSTER CHILD TO A FOSTER PARENT AT THE TIME OF PLACEMENT, SO AS TO MAKE CONFORMING CHANGES.**

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

**Required disclosure of personal health information to kinship care providers necessary to care for a child**

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

 “Section 63‑7‑765. Prior to and at the time the department places a child with a relative providing kinship care following the removal of the child from the home, the department shall disclose to the relative all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the relative’s family. The information that must be disclosed to the relative pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child’s educational needs. If the department does not have this information at the time of making the placement, a member of the child’s casework team or the child’s caseworker shall contact the relative and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child’s caseworker shall research the child’s record and shall supplement the information provided to the relative no later than the end of the first week of placement if additional information is found. When the child’s caseworker acquires new information which is likely to affect either the ability of the relative to provide adequate care and supervision for the child or is likely to place the health and safety of the child or the relative’s family at risk, the department shall disclose that information to the relative. The obligation to provide this information continues until the placement ends.”

**Required disclosure of personal health information to residential facilities necessary to care for a child**

SECTION 2. Subarticle 3, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

 “Section 63‑7‑770. (A) Prior to and at the time the department places a child in a public or private residential facility following the removal of the child from the home, the department shall disclose to the chief executive officer of the facility, or to a designated employee of the facility who provides health‑related services to the child, all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and of other children residing in and personnel working at the facility. The information that must be disclosed pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child’s educational needs. If the department does not have this information at the time of making the placement, a member of the child’s casework team or the child’s caseworker shall contact the designated employee of the facility to provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child’s caseworker shall research the child’s record and shall supplement the information provided to the facility no later than the end of the first week of placement if additional information is found. When the child’s caseworker acquires new information which is likely to affect either the ability of the facility to provide adequate care and supervision for the child or is likely to place the health and safety of the child or of other children residing in the facility or the facility’s personnel at risk, the department shall disclose that information to the designated facility employee. The obligation to provide this information continues until the placement ends.

 (B) For purposes of this section, ‘public or private residential facility’ means a group home, residential treatment center, or other facility that, pursuant to a contract with or a license or permit issued by the department, provides residential services to children in the custody of the department.”

**Required disclosure of personal health information to prospective adoptive parent necessary to care for a child**

SECTION 3. Subarticle 1, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

 “Section 63‑9‑80. Prior to and at the time the department places a child with a prospective adoptive parent for purposes of adoption, the department shall disclose to the prospective adoptive parent all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the prospective adoptive parent’s family. The information that must be disclosed to the prospective adoptive parent pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child’s educational needs. If the department does not have this information at the time of making the placement, a member of the child’s casework team or the child’s caseworker shall contact the prospective adoptive parent and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child’s caseworker shall research the child’s record and shall supplement the information provided to the prospective adoptive parent no later than the end of the first week of placement if additional information is found. When the child’s caseworker acquires new information which is likely to affect either the ability of the prospective adoptive parent to provide adequate care and supervision for the child or is likely to place the health and safety of the child or the prospective adoptive parent’s family at risk, the department shall disclose that information to the prospective adoptive parent. The obligation to provide this information continues until the adoption is finalized.”

**Confidentiality of child abuse or neglect reports, exceptions for disclosure of personal health information necessary to care for a child**

SECTION 4. Section 63‑7‑1990(B)(20), (C), and (D) of the 1976 Code is amended to read:

 “(20) prospective or current adoptive parents, caregivers, kinship care providers, foster parents, and public or private residential facilities, in contemplation of placement and after placement. For purposes of this item, ‘public or private residential facility’ has the same meaning as defined in Section 63‑7‑770;

 (C) The department may limit the information disclosed to individuals and entities named in subsection (B)(13), (14), (15), (16), (17), (18), and (20) to that information necessary to accomplish the purposes for which it is requested or for which it is being disclosed; however, the department shall comply with subsection (D)(2) regarding the release of medical or mental health records to an individual or facility identified in subsection (B)(20). Nothing in this subsection gives to these entities or persons the right to review or copy the complete case record.

 (D)(1) When a request for access to the record comes from an individual identified in subsection (B)(5), (6), or (7), or that person’s attorney, the department shall review any reports from medical care providers and mental health care providers to determine whether the report contains information that does not pertain to the case decision, to the treatment needs of the family as a whole, or to the care of the child. If the department determines that these conditions exist, before releasing the document, the department shall provide a written notice identifying the report to the requesting party and to the person whose treatment or assessment was the subject of the report. The notice may be mailed to the parties involved or to their attorneys or it may be delivered in person. The notice shall state that the department will release the report after ten days from the date notice was mailed to all parties and that any party objecting to release may apply to the court of competent jurisdiction for relief. When a medical or mental health provider or agency furnishes copies of reports or records to the department and designates in writing that those reports or records are not to be further disclosed, the department must not disclose those documents to persons identified in subsection (B)(5), (6), or (7), or that person’s attorney. The department shall identify to the requesting party the records or reports withheld pursuant to this subsection and shall advise the requesting party that he may contact the medical or mental health provider or agency about release of the records or reports.

 (2) The department is authorized to release all records and reports in the department’s possession from a child’s medical providers and mental health providers to an individual or facility identified in subsection (B)(20) that are necessary for that individual or facility to provide adequate care and supervision for the child and to protect the health and safety of the child and others. The department also is authorized to and shall release the information in its possession to a child‑placing agency for the benefit of a foster parent recruited, trained and supported by the child‑placing agency. Information that must be released includes, but is not limited to, the following:

 (a) any medical, dental, and mental health, developmental, educational or other special needs of the child, including the names and addresses of the child’s health and educational providers, the child’s medical history, a record of the child’s immunizations, the child’s current medications, the child’s known medical problems, and any other pertinent health information concerning the child;

 (b) the child’s history of and risks relating to the child’s history including, but not limited to, physical or sexual trauma, physical or sexual aggression, or psychological diagnoses; and

 (c) treatment plans developed for the child.”

**Required disclosure of personal health information to foster parent necessary to care for a child**

SECTION 5. Section 63‑7‑2370 of the 1976 Code is amended to read:

 “Section 63‑7‑2370. Prior to and at the time the department places a child with a foster parent, the department shall disclose to the foster parent all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the foster family. The information that must be disclosed pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child’s educational needs. If the department does not have this information at the time of making the placement, a member of the child’s casework team or the child’s caseworker shall contact the foster parent and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child’s caseworker shall research the child’s record and shall supplement the information provided to the foster parent no later than the end of the first week of placement if additional information is found. When the child’s caseworker acquires new information which is likely to affect either the ability of the foster parent to provide adequate care and supervision for the child or is likely to place the health and safety of the child or the foster family at risk, the department shall disclose that information to the foster parent. The obligation to provide this information continues until the placement ends.”

**Time effective**

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

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