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**S. 794**

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Sponsors: Senator Sheheen

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Summary: Amendment to SC Code of Laws of 1976

**HISTORY OF LEGISLATIVE ACTIONS**

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12/6/2017 Senate Referred to Committee on **General**

1/9/2018 Senate Introduced and read first time ([Senate Journal‑page 53](file:///h:\sj\20180109.docx))

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**VERSIONS OF THIS BILL**

[12/6/2017](file:///p:\pprever\2017-18\794_20171206.docx)

**A** **BILL**

TO AMEND CHAPTER 11, TITLE 63 OF THE 1976 CODE, RELATING TO CHILDREN’S SERVICES AGENCIES, BY ADDING ARTICLE 23, TO ESTABLISH THE DEPARTMENT OF CHILDREN’S SERVICES AND TO PROVIDE FOR THE DEPARTMENT’S POWERS, DUTIES, AND RESPONSIBILITIES; TO AMEND SECTION 63-11-1310, RELATING TO THE PURPOSE OF THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN, TO PROVIDE THAT THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN SHALL BE A DIVISION OF THE DEPARTMENT OF CHILDREN’S SERVICES; TO AMEND SECTION 63-11-1340, RELATING TO THE DIRECTOR OF THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN, TO PROVIDE FOR THE APPOINTMENT OF A DIVISION DIRECTOR OF THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN; TO AMEND SECTION 63-11-1360, RELATING TO THE ANNUAL REPORT OF THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN, TO PROVIDE THAT THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN SHALL MAKE ANNUAL REPORTS TO THE GOVERNOR AND THE GENERAL ASSEMBLY; TO AMEND SECTION 63-11-1510, RELATING TO THE INTERAGENCY SYSTEM FOR CARING FOR EMOTIONALLY DISTURBED CHILDREN, TO CONFORM WITH THE TRANSFER OF THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN TO THE DEPARTMENT OF CHILDREN’S SERVICES; TO AMEND SECTION 63-11-700, RELATING TO THE FOSTER CARE REVIEW BOARD, TO PROVIDE THAT THE FOSTER CARE REVIEW BOARD SHALL BE A DIVISION OF THE DEPARTMENT OF CHILDREN’S SERVICES; TO AMEND SECTION 63-11-730(A), RELATING TO BACKGROUND CHECKS FOR EMPLOYEES AND BOARD MEMBERS, TO CONFORM WITH THE TRANSFER OF THE FOSTER CARE REVIEW BOARD TO THE DEPARTMENT OF CHILDREN’S SERVICES; TO AMEND SECTION 63-11-500(A), RELATING TO THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM, TO PROVIDE THAT THE PROGRAM SHALL BE A DIVISION OF THE DEPARTMENT OF CHILDREN’S SERVICES; TO AMEND ARTICLE 1, CHAPTER 1, TITLE 13, RELATING TO THE DEPARTMENT OF COMMERCE, BY ADDING SECTION 13-1-55, TO PROVIDE THAT THE DEPARTMENT OF COMMERCE SHALL ADMINISTER THE OFFICE OF ECONOMIC OPPORTUNITY; TO AMEND THE FIRST UNDESIGNATED PARAGRAPH IN SECTION 11-35-5270, RELATING TO THE DIVISION OF SMALL AND MINORITY BUSINESS CONTRACTING AND CERTIFICATION, TO PROVIDE THAT THE DIVISION MUST BE ESTABLISHED WITHIN THE STATE FISCAL ACCOUNTABILITY AUTHORITY; TO AMEND SECTION 1-11-10(A), RELATING TO THE DEPARTMENT OF ADMINISTRATION, TO REFLECT THE TRANSFER OF CERTAIN OFFICES AND PROGRAMS FROM THE DEPARTMENT OF ADMINISTRATION TO OTHER STATE AGENCIES AS PROVIDED IN THIS ACT; AND TO REPEAL ARTICLE 11, CHAPTER 11, TITLE 63 OF THE 1976 CODE, RELATING TO THE CHILDREN’S CASE RESOLUTION SYSTEM.

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

SECTION 1. Chapter 11, Title 63 of the 1976 Code is amended by adding:

“ARTICLE 23

Department of Children’s Services

Section 63-11-2300. There is created the Department of Children’s Services. The department shall be headed by an executive director who shall be appointed by the Governor upon the advice and consent of the Senate. The executive director must possess sound moral character, superior knowledge of and experience in the field of early childhood development or education and proven administrative ability. The director is subject to removal by the Governor pursuant to the provisions of Section 1‑3‑240.

Section 63-11-2310. The department shall be responsible for the administration of the following programs:

(1) the Continuum of Care for Emotionally Disturbed Children;

(2) the Developmental Disabilities Council as established by Executive Order in 1971 and reauthorized in 2010;

(2) the Foster Care Review Board; and

(3) the Cass Elias McCarter Guardian ad Litem Program.

Section 63-11-2320. The Department of Administration shall provide such administrative support to the department or any of its divisions or components as they may request and require in the performance of their duties, including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.”

SECTION 2. A. Section 63-11-1310 of the 1976 Code is amended to read:

“Section 63-11-1310. It is the purpose of this article to develop and enhance the delivery of services to severely emotionally disturbed children and youth and to ensure that the special needs of this population are met appropriately to the extent possible within this State. To achieve this objective, the Continuum of Care for Emotionally Disturbed Children Division is established as a division of the Department of ~~Administration~~ Children’s Services. This article supplements and does not supplant existing services provided to this population.”

B. Section 63-11-1340 of the 1976 Code is amended to read:

“Section 63-11-1340. The ~~Governor may~~ executive director shall appoint a Division Director of the Continuum of Care to serve at his pleasure ~~who is subject to removal pursuant to the provisions of Section 1‑3‑240~~. The division director shall employ staff necessary to carry out the provisions of this article. The funds for the division director, staff, and other purposes of the Continuum of Care Division must be provided in the annual general appropriations act. The department, upon the recommendation of the division director, may promulgate regulations in accordance with this article and the provisions of the Administrative Procedures Act and formulate necessary policies and procedures of administration and operation to carry out effectively the objectives of this article.”

C. Section 63-11-1360 of the 1976 Code is amended to read:

“Section 63-11-1360. The Continuum of Care Division shall submit an annual report to the ~~Department of Administration~~ Governor and the General Assembly on its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children.”

D. Section 63-11-1510 of the 1976 Code is amended to read:

“Section 63-11-1510. There is established the Interagency System for Caring for Emotionally Disturbed Children, an integrated system of care to be developed by the Continuum of Care for Emotionally Disturbed Children in the Department of ~~Administration~~ Children’s Services, the Department of Disabilities and Special Needs, the State Health and Human Services Finance Commission, the Department of Mental Health, and the Department of Social Services ~~to be implemented by November 1, 1994~~. The goal of the system is to implement South Carolina's Families First Policy and to support children in a manner that enables them to function in a community setting. The system shall provide assessment and evaluation procedures to insure a proper service plan and placement for each child. This system must have as a key component the clear identification of the agency accountable for monitoring on a regular basis each child's care plan and procedures to evaluate and certify the programs offered by providers.”

SECTION 3. A. Section 63-11-700 of the 1976 Code is amended to read:

“Section 63-11-700. (A) There is created, within the Department of ~~Administration~~ Children’s Services, the Division for Review of the Foster Care of Children. The division must be supported by a board consisting of eight members, all of whom must be past or present members of local review boards. There must be one member from each congressional district, all appointed by the Governor with the advice and consent of the Senate.

(B) Terms of office for the members of the board are for four years and until their successors are appointed and qualify. Appointments must be made by the Governor for terms of four years to expire on June thirtieth of the appropriate year.

(C) The board shall elect from its members a chairman who shall serve for two years. Five members of the board constitute a quorum for the transaction of business. Members of the board shall receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees while engaged in the work of the board.

(D) The board shall meet at least quarterly and more frequently upon the call of the division director to review and coordinate the activities of the local review boards and make recommendations to the Governor and the General Assembly with regard to foster care policies, procedures, and deficiencies of public and private agencies which arrange for foster care of children as determined by the review of cases provided for in Section 63‑11‑720(A)(1) and (2). These recommendations must be submitted to the Governor and included in an annual report, filed with the General Assembly, of the activities of the state office and local review boards.

(E) The ~~board~~ department, upon recommendation of the division director, shall promulgate regulations to carry out the provisions of this article. These regulations shall provide for and must be limited to procedures for: reviewing reports and other necessary information at state, county, and private agencies and facilities; scheduling of reviews and notification of interested parties; conducting local review board and board of directors' meetings; disseminating local review board recommendations, including reporting to the appropriate family court judges the status of judicially approved treatment plans; participating and intervening in family court proceedings; and developing policies for summary review of children privately placed in privately‑owned facilities or group homes.

(F) The ~~Governor may~~ Executive Director of the Department of Children’s Services shall employ a division director to serve at ~~the Governor's~~ his pleasure ~~who may be paid an annual salary to be determined by the Governor~~. ~~The director may be removed pursuant to Section 1‑3‑240.~~ The division director shall employ staff as is necessary to carry out this article, and the staff must be compensated in an amount and in a manner as may be determined by the ~~Governor~~ division director.

(G) This article may not be construed to provide for subpoena authority.”

B. Section 63-11-730(A) of the 1976 Code is amended to read:

“Section 63-11-730. (A) No person may be employed by the Division for Review of the Foster Care of Children, within the Department of ~~Administration~~ Children’s Services, or may serve on the state or a local foster care review board if the person:

(1) is the subject of an indicated report or affirmative determination of abuse or neglect as maintained by the Department of Social Services in the Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7;

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

(a) an "offense against the person" as provided for in Title 16, Chapter 3;

(b) an "offense against morality or decency" as provided for in Title 16, Chapter 15; or

(c) contributing to the delinquency of a minor, as provided for in Section 16‑17‑490.”

SECTION 4. Section 63-11-500(A) of the 1976 Code is amended to read:

“Section 63-11-500. (A) There is created the Cass Elias McCarter Guardian ad Litem Program in South Carolina. The program shall serve as a statewide system to provide training and supervision to volunteers who serve as court‑appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to Section 63‑7‑1620. This program must be administered by the Department of ~~Administration~~ Children’s Services.”

SECTION 5. Article 1, Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Section 13-1-55. The Department of Commerce shall administer the Office of Economic Opportunity, the office designated by the Governor to be the state administering agency that is responsible for the receipt and distribution of the federal funds allocated to South Carolina for the implementation of Title VI, Public Law 97‑35.”

SECTION 6. The first undesignated paragraph in Section 11-35-5270 of the 1976 Code is amended to read:

“Section 11-35-5270. The Division of Small and Minority Business Contracting and Certification must be established within the ~~Department of Administration~~ State Fiscal Accountability Authority to assist the ~~Department of Administration~~ authority and the Department of Revenue in carrying out the intent of this article. The responsibilities of the division include, but are not limited to, the following:”

SECTION 7. Section 1-11-10(A) of the 1976 Code is amended to read:

“Section 1-11-10. (A) There is hereby created, within the executive branch of the state government, the Department of Administration, headed by a director appointed by the Governor upon the advice and consent of the Senate who only may be removed pursuant to Section 1 3 240(B). ~~Effective July 1, 2015, the~~ The following offices, divisions, or components of the former State Budget and Control Board, Office of the Governor, or other agencies are transferred to, and incorporated into, the Department of Administration:

(1) the Division of General Services, including Business Operations, Facilities Management, State Building and Property Services, and Agency Services, including surplus property, intrastate mail, parking, state fleet management, except that the Division of General Services shall not be transferred to the Department of Administration until the Director of the Department of Administration enters into a memorandum of understanding with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection. There shall be a single memorandum of understanding involving the Department of Administration and the legislative and judicial branches with appropriate officials of each to be signatories to the memorandum of understanding.

(a) The memorandum of understanding shall provide for:

(i) continued use of existing office space;

(ii) a method for the allocation of new, additional, or different office space;

(iii) adequate parking;

(iv) a method for the allocation of new, additional, or different parking;

(v) the provision of appropriate levels of electrical, mechanical, maintenance, energy management, fire protection, custodial, project management, safety and building renovation, and other services currently provided by the General Services Division of the State Budget and Control Board;

(vi) the provision of water, electricity, steam, and chilled water to the offices, areas, and facilities occupied by the applicable agencies;

(vii) the ability for each agency or department to maintain building access control for its allocated office space; and

(viii) access control for the Senate and House chambers and courtrooms as appropriate.

(b) The parties may modify the memorandum of understanding by mutual consent at any time.

(c) The General Services Division must provide the services described in subsection (a) and any other maintenance and support, at a level that is greater than or equal to what is provided prior to the effective date of this act, to each building on the Capitol Complex, including the Supreme Court, without charge. The General Services Division must coordinate with the appropriate officials of applicable legislative and judicial agencies or departments when providing these services to the buildings and areas controlled by those agencies;

(2) the State Office of Human Resources;

(3) ~~the Guardian Ad Litem Program as established in Article 5, Chapter 11, Title 63;~~

~~(4)~~ ~~the Office of Economic Opportunity, the office designated by the Governor to be the state administering agency that is responsible for the receipt and distribution of the federal funds as allocated to South Carolina for the implementation of Title VI, Public Law 97 35;~~

~~(5)~~ ~~the Developmental Disabilities Council as established by Executive Order in 1971 and reauthorized in 2010;~~

~~(6)~~ ~~the Continuum of Care for Emotionally Disturbed Children as established in Article 13, Chapter 11, Title 63;~~

~~(7)~~ ~~the Division for Review of the Foster Care of Children as established by Article 7, Chapter 11, Title 63;~~

~~(8)~~ ~~the Children’s Case Resolution System as established by Article 11, Chapter 11, Title 63;~~

~~(9)~~ ~~Reserved;~~

~~(10)~~ the Division of Veterans’ Affairs as established by Chapter 11, Title 25;

~~(11)~~(4) the Commission on Women as established by Chapter 15, Title 1;

~~(12)~~(5) the Governor’s Office of Ombudsman;

~~(13)~~ ~~the Division of Small and Minority Business Contracting and Certification, as established pursuant to Article 21, Chapter 35, Title 11, formerly known as the Small and Minority Business Assistance Office;~~

~~(14)~~(6) the Division of State Information Technology, including the Data Center, Telecommunications and Information Technology Services, the South Carolina Enterprise Information System, and the Division of Information Security; and

~~(15)~~(7) the Nuclear Advisory Council as established in Article 9, Chapter 7, Title 13.”

SECTION 8. Article 11, Chapter 11, Title 63 of the 1976 Code, relating to the Children’s Case Resolution System, is repealed.

SECTION 9. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections on the subject of restructuring the Department of Administration as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 10. A. Where the provisions of this act transfer duties, programs, or services of the Department of Administration to the Department of Children’s Services, the Department of Commerce, or the State Fiscal Accountability Authority, the employees, authorized appropriations, and assets and liabilities of these divisions, services, and programs also are transferred to and become part of the Department of Children’s Services, the Department of Commerce, or the State Fiscal Accountability Authority, as appropriate. All classified or unclassified personnel employed by the divisions, programs, services, or initiatives transferred from the Department of Administration, either by contract or by employment at will, become on July 1, 2018 employees of the Department of Children’s Services, the Department of Commerce, or the State Fiscal Accountability Authority, as appropriate, with the same compensation, classification, and grade level, as applicable. Before the transfer of the applicable divisions, programs, services, or initiatives of the Department of Administration pursuant to this act, these agencies and organizations shall cause all necessary actions to be taken to accomplish this transfer in accordance with state and federal laws and regulations.

B. Applicable regulations promulgated by the Department of Administration are continued and are considered to be promulgated by the Department of Children’s Services, the Department of Commerce, or the State Fiscal Accountability Authority, as appropriate. Applicable contracts entered into by the Department of Administration are continued and are considered to be devolved upon the Department of Children’s Services, the Department of Commerce, or the State Fiscal Accountability Authority, as appropriate, at the time of the transfer.

SECTION 11. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 12. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 13. This act takes effect July 1, 2018.

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