CHAPTER 11

Children’s Services Agencies

ARTICLE 1

Child Welfare Agencies

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

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|  |  |
| NewSection | FormerSection |
| 63‑11‑10 | 20‑7‑2230 |
| 63‑11‑20 | 20‑7‑2240 |
| 63‑11‑30 | 20‑7‑2250 |
| 63‑11‑40 | 20‑7‑635 |
| 63‑11‑50 | 20‑7‑2260 |
| 63‑11‑60 | 20‑7‑2270 |
| 63‑11‑70 | 20‑7‑2265 |
| 63‑11‑80 | 20‑7‑2280 |
| 63‑11‑90 | 20‑7‑2290 |

**SECTION 63‑11‑10.** “Child welfare agency” defined.

 Any agency, institution or family home engaged in the business of receiving children for care and maintenance, either part or full time, shall be classed as a child welfare agency.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Child placing agencies regulations, see S.C. Code of Regulations R. 114‑4910 et seq.

Provision that, for purposes of Subarticles 7 and 9 of Article 11, a “child placing agency” or “agency” includes an entity licensed pursuant to this subarticle, see Section 63‑9‑30.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

Attorney General’s Opinions

Family home engaged in the business of receiving children for care and maintenance, either part time or full time, shall be classed as a child welfare agency and shall pay the annual license fee of five dollars. 1965‑66 Op. Atty Gen, No. 2103, p 208.

**SECTION 63‑11‑20.** Exemptions.

 (A) This article does not apply to:

 (1) child welfare agencies operating under the active supervision of a governing board representing an established religious denomination, except as these agencies voluntarily assume the obligations and acquire the rights provided by this article;

 (2) any children’s home or institution to which state funds are appropriated;

 (3) the John de la Howe School in McCormick County; provided, that the board of trustees of that school may elect to be licensed by the department, in which case the board of trustees shall request, by resolution, the department to license the John de la Howe School. When a license has been issued to the John de la Howe School by the department, pursuant to this article, the school is bound by all regulations promulgated by the department relating to licensing standards and other matters pertaining to licensing standards;

 (4) rescue missions or other similar charitable institutions organized before May 8, 1959, for the purpose of providing temporary care and custody of children and other needy persons and operating under a local board of trustees pursuant to and authorized by law.

 (B) However, a foster care facility which does not receive state or federal financial assistance, operated by a local church congregation or established religious denomination or religious college or university must register with the department and report the number of children kept at the facility with the State Department of Social Services by January second of every year. These facilities must pass annual inspections by state or local authorities for compliance with the fire, health, and sanitation requirements.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

John de la Howe School, see Sections 59‑49‑10 et seq.

State Children’s Bureau, see Section 63‑9‑1340.

Violation of this section as grounds for denial or revocation of license of child placing agency, see S.C. Code of Regulations R. 114‑49‑30.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑30.** Department of Social Services to administer article.

 The department shall administer the provisions of this article and shall make and promulgate such rules and regulations relating to licensing standards and other matters as may be necessary to carry out the purposes of this article.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Child Placing Agencies Regulations, see S.C. Code of Regulations R. 114‑4910 et seq.

Licensing of residential group care organizations for children, see S.C. Code of Regulations R. 114‑590.

Standards for supervised independent living, residential group care facilities for children, see S.C. Code of Regulations R. 114‑595.

Violation of this section as grounds for denial or revocation of license of child placing agency, see S.C. Code of Regulations R. 114‑4930.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑40.** Temporary crisis placements.

 (A) The department is authorized to develop a network of homes and facilities to use for temporary crisis placements for children.

 (B) Temporary crisis placements may be made with licensed child welfare agencies including foster homes and residential group facilities. The department also may use volunteers who are screened by the department for the sole purpose of these placements. The screening of volunteer crisis homes shall include Central Registry of Child Abuse and Neglect and criminal history records checks in accordance with Section 63‑7‑2340. The department shall develop criteria for screening volunteer crisis homes through promulgation of regulations in accordance with the Administrative Procedures Act.

 (C) Children in temporary crisis placements are not in the custody of the department and must not be considered to be in foster care. No placement of a child in a temporary crisis home or facility may occur unless it is agreed to by the child’s parent, guardian, or custodian and the department. Temporary crisis placements may last no longer than seventy‑two hours.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17, 192.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9, 24 to 25, 41 to 42, 46 to 48.

**SECTION 63‑11‑50.** License revocation or refusal to renew.

 The department may revoke the license of any child welfare agency which fails to maintain the proper standards of care and service to children in its charge or which violates any provision of this article. No license shall be revoked or its renewal refused except upon thirty days’ written notice thereof. Upon appeal from such revocation or refusal to renew a license, the department shall, after thirty days’ written notice thereof, hold a hearing, at which time the agency shall be given an opportunity to present testimony and confront witnesses. An appeal of the agency’s decision may be made to an administrative law judge pursuant to the Administrative Procedures Act.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Administrative Procedures Act, see Sections 1‑23‑310 et seq.

Violation of this section as grounds for denial or revocation of license of child placing agency, see S.C. Code of Regulations R. 114‑4930.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑60.** Placing children in family homes.

 A licensed child welfare agency may place children in family homes for care, if authorized to do so by the department. Any child so placed may be taken from such family home when the child welfare agency responsible for his care is satisfied that the child’s welfare requires such action.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Violation of this section as grounds for denial or revocation of license of child placing agency, see S.C. Code of Regulations R. 114‑4930.

Library References

Infants 17, 222.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9, 43, 71 to 95.

Attorney General’s Opinions

In construing phrase “a substantiated history of child abuse or neglect” reference may be made to provisions of Section 20‑7‑650 which provide for “affirmative determinations” of child abuse or neglect and which provide for establishment of Central Registry of Child Abuse and Neglect. If separate criminal conviction was obtained, such could be noted and would probably disqualify individual as having “a substantiated history of child abuse or neglect.” 1993 Op. Atty Gen No. 93‑47.

Court orders regarding placements which predate July 1, 1993 should be subject to court review in light of H.3669. 1993 Op. Atty Gen No. 93‑47.

In construing placements prohibited by H.3669, consideration should be given to all individuals residing in foster home and not just those who are licensed. 1993 Op. Atty Gen No. 93‑47.

Term “foster care” as used in H.3669 could be construed as including foster family home care, child caring facilities and residential group homes. 1993 Op. Atty Gen No. 93‑47.

NOTES OF DECISIONS

In general 1

1. In general

County agency had no duty, under due process clause of Federal Constitution’s Fourteenth Amendment, to protect child against abuse by his father while child was in father’s custody. DeShaney v. Winnebago County Dept. of Social Services, U.S.Wis.1989, 109 S.Ct. 998, 489 U.S. 189, 103 L.Ed.2d 249.

**SECTION 63‑11‑70.** Background checks; pardons.

 When a provision of law or regulation provides for a criminal history background check in connection with licensing, placement, service as a volunteer, or employment with a child welfare agency, the provision of law or regulation may not operate to prohibit licensing, placement, service as a volunteer, or employment when a conviction or plea of guilty or nolo contendere has been pardoned. However, notwithstanding the entry of a pardon, the department, child welfare agency, or employer may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited for licensing, placement, service as a volunteer, or employment.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Pardon and Parole 24.

Westlaw Topic Nos. 211, 284.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. Pardon and Parole Sections 11 to 12, 14 to 30.

**SECTION 63‑11‑80.** Prohibition against certain disclosures of information; exception.

 An officer, agent or employee of the department or a child welfare agency shall not disclose, directly or indirectly, information learned about a child, the child’s parents or relatives, or other persons having custody or control of the child, except in cases involving a child in the custody or control of persons who have military affiliation.

HISTORY: 2008 Act No. 361, Section 2; 2015 Act No. 62 (H.3548), Section 4, eff June 4, 2015.

Effect of Amendment

2015 Act No. 62, Section 4, rewrote the section.

CROSS REFERENCES

Confidentiality of reports and records, see Section 63‑7‑1990.

Violation of this section as grounds for denial or revocation of license of child placing agency, see S.C. Code of Regulations R. 114‑4930.

Library References

Infants 133.

Westlaw Topic No. 211.

C.J.S. Infants Sections 43, 71 to 95.

**SECTION 63‑11‑90.** Penalties.

 Any person and any officer, agent or employee of the department or of a child welfare agency who violates any of the provisions of this article, or who shall intentionally make any false statement to the department shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Violation of this section as grounds for denial or revocation of license of child placing agency, see S.C. Code of Regulations R. 114‑4930.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

ARTICLE 3

Children’s Advocacy Centers

Showing the section in former Chapter 7, Title 20 from which the section in this article was derived.

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|  |  |
| NewSection | FormerSection |
| 63‑11‑310 | 20‑7‑495 |

**SECTION 63‑11‑310.** Children’s advocacy centers.

 (A) “Children’s Advocacy Centers” mean centers which must coordinate a multi‑agency response to child maltreatment and assist in the investigation and assessment of child abuse. These centers must provide:

 (1) a neutral, child‑friendly facility for forensic interviews;

 (2) the coordination of services for children reported to have been abused;

 (3) services including, but not limited to, forensic interviews, forensic medical examinations, and case reviews by multidisciplinary teams to best determine whether maltreatment has occurred; and

 (4) therapeutic counseling services, support services for the child and nonoffending family members, court advocacy, consultation, and training for professionals who work in the area of child abuse and neglect, to reduce negative impact to the child and break the cycle of abuse.

 (B)(1) Children’s Advocacy Centers must establish memoranda of agreement with governmental entities charged with the investigation and prosecution of child abuse. Fully operational centers must function in a manner consistent with standards of the National Children’s Alliance, and all centers must strive to achieve full membership in the National Children’s Alliance.

 (2) Children’s Advocacy Centers must establish written policies and procedures for standards of care including, but not limited to, the timely intervention of services between initial contact with the child and the event which led to the child’s being referred to the center. Children’s Advocacy Centers must make available these written policies and procedures to all professionals who provide services relating to the investigation, treatment, and prosecution of child abuse and neglect within the geographical vicinity of the center.

 (3) Children’s Advocacy Center records must be released to the Department of Social Services for purposes of investigation, assessment of allegations of child abuse or neglect, and provision of treatment services to the children or their families. The records must be released to law enforcement agencies and circuit solicitors or their agents who are:

 (a) investigating or prosecuting known or suspected abuse or neglect of a child;

 (b) investigating or prosecuting the death of a child;

 (c) investigating or prosecuting any crime against a child; or

 (d) attempting to locate a missing child.

 This provision does not preclude or override the release of information based upon a subpoena or court order, unless otherwise prohibited by law.

 (C) The South Carolina Network of Children’s Advocacy Centers and the South Carolina Chapter of the National Children’s Alliance must coordinate and facilitate the exchange of information among statewide centers and provide technical assistance to communities in the establishment, growth, and certification of local centers. The network must also educate the public and legislature regarding the needs of abused children and provide or coordinate multidisciplinary training opportunities which support the comprehensive response to suspected child maltreatment.

 (D) Nothing in this section requires the exclusive use of a Children’s Advocacy Center.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

South Carolina Children’s Advocacy Medical Response System, children’s advocacy center defined, see Section 63‑11‑420.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

ARTICLE 4

South Carolina Children’s Advocacy Medical Response System

**SECTION 63‑11‑400.** Short title.

 This article may be cited as the “South Carolina Children’s Advocacy Medical Response System Act”.

HISTORY: 2014 Act No. 153 (H.4347), Section 1, eff April 7, 2014.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Children and Families Section 37, Duty of the State Department of Social Services to Provide Services.

**SECTION 63‑11‑410.** South Carolina Children’s Advocacy Medical Response System.

 There is created the South Carolina Children’s Advocacy Medical Response System, a program to provide coordination and administration of medical service resources to those entities responding to cases of suspected child abuse or neglect. The program is administered by the University of South Carolina School of Medicine.

HISTORY: 2014 Act No. 153 (H.4347), Section 1, eff April 7, 2014.

**SECTION 63‑11‑420.** Definitions.

 For purposes of this article:

 (1) “Child” has the same meaning as provided for in Section 63‑7‑20.

 (2) “Child abuse or neglect” has the same meaning as provided for in Section 63‑7‑20.

 (3) “Children’s advocacy centers” has the same meaning as provided for in Section 63‑11‑310.

 (4) “Program” means the South Carolina Children’s Advocacy Medical Response System, created pursuant to this article.

 (5) “Health care provider” means a physician, advanced practice registered nurse, or physician assistant licensed to practice in this State pursuant to Article 1, Chapter 47, Title 40, Article 1, Chapter 33, Title 40, and Article 7, Chapter 47, Title 40, respectively.

HISTORY: 2014 Act No. 153 (H.4347), Section 1, eff April 7, 2014.

**SECTION 63‑11‑430.** Program requirements.

 (A) The program coordinates and administers child abuse medical service resources for the State, assisting and collaborating with children’s advocacy centers and state agencies charged with the investigation, assessment, treatment, and prosecution of child abuse or neglect for children in the State.

 (B) The program shall develop, support, and maintain a consistent quality standard of care and practice for the following services intrinsic to the assessment of children with suspected abuse or neglect:

 (1) forensic medical examinations, assessments, and diagnoses;

 (2) medical consultations;

 (3) participation in multidisciplinary team case conferences and reviews; and

 (4) medical expert witness services.

 (C) The program also shall develop, support, and maintain:

 (1) guidelines for the educational, clinical training, and professional development requirements of health care providers participating in the forensic medical assessment of children who are suspected victims of child abuse or neglect;

 (2) a standardized clinical assessment tool to report the findings of the forensic medical assessment; and

 (3) guidelines for the South Carolina Department of Social Services and law enforcement agencies on when to obtain a forensic medical assessment.

 (D) The program shall collect and manage data from child abuse health care providers participating in the program, children’s advocacy centers, and children’s hospitals for the purposes of establishing quality assurance programs, research, and public policy guidance.

HISTORY: 2014 Act No. 153 (H.4347), Section 1, eff April 7, 2014.

ARTICLE 5

Cass Elias McCarter Guardian Ad Litem Program

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

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| NewSection | FormerSection |
| 63‑11‑500 | 20‑7‑121 |
| 63‑11‑510 | 20‑7‑122 |
| 63‑11‑520 | 20‑7‑123 |
| 63‑11‑530 | 20‑7‑124 |
| 63‑11‑540 | 20‑7‑125 |
| 63‑11‑550 | 20‑7‑126 |
| 63‑11‑560 | 20‑7‑127 |
| 63‑11‑570 | 20‑7‑129 |

Code Commissioner’s Note

At the direction of the Code Commissioner, this article was renamed from “South Carolina Guardian Ad Litem Program”.

CROSS REFERENCES

Department of Administration established, transfer of offices, divisions, other agencies, see Section 1‑11‑10.

**SECTION 63‑11‑500.** Creation, purpose, and administration of program.

 (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.

 (B) Notwithstanding the provisions of subsection (A), a county providing the guardian ad litem services set forth in subsection (A) prior to the effective date of this act may continue to provide such services, provided the county guardian ad litem program is a member of the National Court Appointed Special Advocate Association. However, a county guardian ad litem program operating pursuant to this subsection must comply with all state and federal laws, even if compliance with state or federal laws would result in the violation of a requirement for membership in the National Court Appointed Special Advocate Association.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 288, Section 1; 2010 Act No. 202, Section 1, eff June 3, 2010; 2014 Act No. 121 (S.22), Pt V, Section 7.JJ, eff July 1, 2015.

Effect of Amendment

The 2010 amendment, in subsection (A), substituted “Cass Elias McCarter” for “South Carolina” preceding, and substituted “in South Carolina. The program shall” for “to” following, “Guardian ad Litem Program”.

2014 Act No. 121, Section 7.JJ, in subsection (A), substituted “Department of Administration” for “Office of the Governor”.

CROSS REFERENCES

State Accident Fund, see Section 42‑7‑10.

Library References

Infants 76, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 44 to 45, 58 to 59, 62, 66, 69 to 70, 195, 321 to 336, 338 to 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Children and Families Section 18, Representation Before the Family Courts.

S.C. Jur. Children and Families Section 120, Who May Serve as Guardian Ad Litem.

S.C. Jur. Children and Families Section 122, Termination of Appointment of Guardian Ad Litem.

S.C. Jur. Children and Families Section 123, Role of Guardian Ad Litem.

Notes of Decisions

Attorney fees 1

1. Attorney fees

Family court erred in assessing attorney fees against mother for the substitute counsel representing the volunteer guardian ad litem (GAL) in Department of Social Services’ (DSS) intervention action against mother and father; General Assembly did not intend for parties in abuse and neglect proceedings to pay legal counsel’s attorney fees when representing volunteer GALs. South Carolina Dept. of Social Services v. Mary C. (S.C.App. 2011) 396 S.C. 15, 720 S.E.2d 503, rehearing denied. Infants 1244; Infants 2112

**SECTION 63‑11‑510.** Responsibilities of guardian ad litem.

 The responsibilities and duties of a guardian ad litem are to:

 (1) represent the best interests of the child;

 (2) advocate for the welfare and rights of a child involved in an abuse or neglect proceeding;

 (3) conduct an independent assessment of the facts, the needs of the child, and the available resources within the family and community to meet those needs;

 (4) maintain accurate, written case records;

 (5) provide the family court with a written report, consistent with the rules of evidence and the rules of the court, which includes without limitation evaluation and assessment of the issues brought before the court and recommendations for the case plan, the wishes of the child, if appropriate, and subsequent disposition of the case;

 (6) monitor compliance with the orders of the family court and to make the motions necessary to enforce the orders of the court or seek judicial review;

 (7) protect and promote the best interests of the child until formally relieved of the responsibility by the family court.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 85, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 44 to 45, 58 to 59, 62, 66, 69 to 70, 321, 334.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Children and Families Section 123, Role of Guardian Ad Litem.

S.C. Jur. Children and Families Section 132, The Report and Recommendation of the Guardian Ad Litem.

NOTES OF DECISIONS

In general 1

1. In general

Guardian ad litem’s actions and inactions so tainted decision of family court as to deny wife due process in child custody case, and, as such, admission of guardian ad litem’s recommendation was not harmless error; guardian ad litem did not keep notes of her observations during her investigation and failed to produce written report, guardian ad litem contacted husband’s counsel nineteen times, but never contacted wife’s counsel, and guardian ad litem listened to phone conversation between husband and wife without wife’s knowledge. Patel v. Patel (S.C. 2001) 347 S.C. 281, 555 S.E.2d 386, rehearing denied, on subsequent appeal 359 S.C. 515, 599 S.E.2d 114. Child Custody 923(1)

After being appointed by court, guardian ad litem derives his or her powers and duties from applicable statutes. South Carolina Dept. of Social Services v. Pritcher (S.C.App. 1997) 329 S.C. 242, 495 S.E.2d 242, rehearing denied, certiorari denied. Infants 1245; Infants 1246(1)

**SECTION 63‑11‑520.** Persons prohibited from appointment as guardians ad litem.

 No person may be appointed as a guardian ad litem for a child in an abuse or neglect proceeding who has been convicted of any crime listed in Chapter 3 of Title 16, Offenses Against the Person, in Chapter 15 of Title 16, Offenses Against Morality and Decency, in Article 3 of Chapter 53 of Title 44, Narcotics and Controlled Substances, or for the crime of contributing to the delinquency of a minor, provided for in Section 16‑17‑490.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 81, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 44 to 45, 58 to 59, 62, 66, 69 to 70, 321, 332 to 334.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Bigamy Section 25, Sentence, Punishment and Disabilities of Convicted Defendant.

S.C. Jur. Children and Families Section 120, Who May Serve as Guardian Ad Litem.

S.C. Jur. Poisons Section 10, Criminal Liability.

**SECTION 63‑11‑530.** Guardian ad litem to represent best interests of the child; removal of volunteer guardian ad litem.

 (A)(1) The guardian ad litem is charged in general with the duty of representation of the child’s best interests. After appointment by the family court to a case involving an abused or neglected child, the guardian ad litem shall receive appropriate notice of all court hearings and proceedings regarding the child. The obligation of the guardian ad litem to the court is a continuing one and continues until formally relieved by the court.

 (2) The South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63‑11‑500, whichever is appropriate, may intervene in an abuse or neglect proceeding in order to petition the court to relieve the volunteer, lay guardian ad litem from appointment for the following reasons:

 (a) incapacity;

 (b) conflict of interest;

 (c) misconduct;

 (d) persistent neglect of duties;

 (e) incompetence; or

 (f) a knowing and wilful violation of program policies and procedures that affect the health, safety, and welfare of the child.

 (3) The court shall determine what is in the best interest of the child when ruling on the petition.

 (B) The guardian ad litem is authorized to:

 (1) conduct an independent assessment of the facts;

 (2) confer with and observe the child involved;

 (3) interview persons involved in the case;

 (4) participate on any multidisciplinary evaluation team for the case on which the guardian ad litem has been appointed;

 (5) make recommendations to the court concerning the child’s welfare;

 (6) make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the child.

 (C) The guardian ad litem is authorized through counsel to introduce, examine, and cross‑examine witnesses in any proceeding involving the child and participate in the proceedings to any degree necessary to represent the child adequately.

HISTORY: 2008 Act No. 361, Section 2; 2009 Act No. 37, Section 1, eff June 2, 2009.

Effect of Amendment

The 2009 amendment designated subparagraph (A)(1) and added subparagraphs (A)(2) and (A)(3) relating to relieving a volunteer, lay guardian ad litem from appointment.

CROSS REFERENCES

Legal representation of children in abuse and neglect proceedings, see Section 63‑7‑1620.

Library References

Infants 85, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 44 to 45, 58 to 59, 62, 66, 69 to 70, 321, 334.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Children and Families Section 122, Termination of Appointment of Guardian Ad Litem.

S.C. Jur. Children and Families Section 123, Role of Guardian Ad Litem.

NOTES OF DECISIONS

In general 1

Appointment of additional guardian ad litem 4

Authority 2

Duration of appointment 3

1. In general

After being appointed by court, guardian ad litem derives his or her powers and duties from applicable statutes. South Carolina Dept. of Social Services v. Pritcher (S.C.App. 1997) 329 S.C. 242, 495 S.E.2d 242, rehearing denied, certiorari denied. Infants 1245; Infants 1246(1)

2. Authority

Guardian ad litem’s statutory authority in abuse and neglect cases includes power to conduct independent assessment of the facts, to make recommendations to court concerning child’s welfare, and to make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the child. South Carolina Dept. of Social Services v. Pritcher (S.C.App. 1997) 329 S.C. 242, 495 S.E.2d 242, rehearing denied, certiorari denied. Infants 2102

3. Duration of appointment

Guardian ad litem’s obligation continues until guardian is formally relieved by the court. South Carolina Dept. of Social Services v. Pritcher (S.C.App. 1997) 329 S.C. 242, 495 S.E.2d 242, rehearing denied, certiorari denied. Infants 1246(1)

4. Appointment of additional guardian ad litem

Appointment of an additional guardian ad litem when the child’s appointed guardian ad litem brings a termination of parental rights (TPR) action is not required, when the guardian does not have a personal stake in the outcome of the TPR action, such as a desire to adopt the child herself, in light of fact that TPR statutes should be liberally construed to promptly effectuate their purposes, and fact that a natural parent subject to a TPR action brought by the child’s guardian can always move for the appointment of a new guardian. Joiner ex rel. Rivas v. Rivas (S.C. 2000) 342 S.C. 102, 536 S.E.2d 372. Infants 2102

**SECTION 63‑11‑540.** Right of access to information and records.

 All reports made and information collected as described in Section 63‑7‑1990(A) must be made available to the guardian ad litem by the Department of Social Services. Upon proof of appointment as guardian ad litem and upon the guardian ad litem request, access to information must be made available to the guardian ad litem by the appropriate medical and dental authorities, psychologists, social workers, counselors, schools, and any agency providing services to the child.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 84, 133, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 43 to 45, 58 to 59, 62, 66, 69 to 95, 321, 334 to 336.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Children and Families Section 123, Role of Guardian Ad Litem.

**SECTION 63‑11‑550.** Confidentiality of records and information.

 (A) All reports and information collected pursuant to this article maintained by the South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63‑11‑500(B) or by a guardian ad litem, are confidential except as provided for in Section 63‑7‑1990(C). A person who disseminates or permits the unauthorized dissemination of the information is guilty of contempt of court and, upon conviction, may be fined or imprisoned, or both, pursuant to Section 63‑3‑620.

 (B) The name, address, and other identifying characteristics of a person named in a report determined to be judicially unfounded must be destroyed one year from the date of the determination. The name, address, and other identifying characteristics of any person named in a report determined to be judicially indicated must be destroyed seven years from the date that the guardian ad litem formally is relieved of responsibility as guardian ad litem by the family court.

 (C) The director of the South Carolina Guardian ad Litem Program or the director’s designee, or the chief administrator of a county guardian ad litem program operating pursuant to Section 63‑11‑500(B), may disclose to the media information contained in child protective services records, if disclosure is limited to discussion of the program’s activities in handling the case. The program may incorporate into its discussion of the handling of the case any information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, or other public judicial proceedings. For purposes of this subsection, information is considered “placed in the public domain” when it has been reported in the news media, is contained in public records of a criminal justice agency, is contained in public records of a court of law, or has been the subject of testimony in a public judicial proceeding.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 288, Section 2; 2009 Act No. 37, Section 2, eff June 2, 2009.

Effect of Amendment

The 2009 amendment, in subsection (A), added in the first sentence “or by a guardian ad litem,”.

Library References

Infants 77, 133, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 43 to 45, 58 to 59, 62, 66, 69 to 95, 321, 328 to 329, 334.

NOTES OF DECISIONS

In general 1

1. In general

The testimony of a guardian ad litem was admissible when offered by one brother as a statement against the interest of the other brother, both of whom were charged with the murders of their grandmother and father and each of whom blamed the other, since nothing in either the common law or the code renders a communication made by an infant to his guardian ad litem privileged in such circumstances. State v. Good (S.C.App. 1992) 308 S.C. 313, 417 S.E.2d 643, rehearing denied, certiorari denied.

**SECTION 63‑11‑560.** Immunity from liability for guardian ad litem.

 After participating in the training program of the South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63‑11‑500(B), a person who is appointed to serve as guardian ad litem and serves without compensation is not liable for any civil damages for any personal injury as a result of any act or omission by the person in the discharge of the responsibilities of a guardian ad litem if the person acts in good faith and is not guilty of gross negligence.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 288, Section 3.

Library References

Infants 85, 205.

Westlaw Topic No. 211.

C.J.S. Infants Sections 40, 44 to 45, 58 to 59, 62, 66, 69 to 70, 321, 334.

NOTES OF DECISIONS

In general 1

1. In general

A paid guardian ad litem must answer to his ward if his negligent acts cause the ward damage. Fleming v. Asbill (C.A.4 (S.C.) 1994) 42 F.3d 886. Infants 1246(2)

**SECTION 63‑11‑570.** Funds.

 The General Assembly shall provide the funds necessary for the South Carolina Guardian ad Litem Program to carry out the provisions of Sections 63‑11‑500 through 63‑11‑560 and 63‑7‑1990(B)(5). The General Assembly shall not provide any funding for a county guardian ad litem program.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 288, Section 4.

Library References

Infants 76, 205.

States 129.

Westlaw Topic Nos. 211, 360.

C.J.S. Infants Sections 40, 44 to 45, 58 to 59, 62, 66, 69 to 70, 195, 321 to 336, 338 to 343.

C.J.S. States Sections 390 to 417.

ARTICLE 7

Foster Care Review Board

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

|  |  |
| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑700 | 20‑7‑2379 |
| 63‑11‑710 | 20‑7‑2385 |
| 63‑11‑720 | 20‑7‑2376 |
| 63‑11‑730 | 20‑7‑2386 |
| 63‑11‑740 | 20‑7‑2388 |
| 63‑11‑750 | 20‑7‑2377 |
| 63‑11‑760 | 20‑7‑2382 |
| 63‑11‑770 | 20‑7‑2394 |
| 63‑11‑780 | 20‑7‑2391 |
| 63‑11‑790 | 20‑7‑2397 |

CROSS REFERENCES

Department of Administration established, transfer of offices, divisions, other agencies, see Section 1‑11‑10.

**SECTION 63‑11‑700.** Division for Review of the Foster Care of Children; board.

 (A) There is created, within the Department of Administration, 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, 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 employ a division director to serve at the Governor’s 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.

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

HISTORY: 2008 Act No. 361, Section 2; 2012 Act No. 279, Section 29, eff June 26, 2012; 2014 Act No. 121 (S.22), Pt V, Section 7.KK.1, eff July 1, 2015.

Editor’s Note

2012 Act No. 279, Section 33, provides as follows:

“Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.”

Effect of Amendment

The 2012 amendment removed “and one member from the State at large” in subsection (A).

2014 Act No. 121, Section 7.KK.1, in subsection (A), substituted “within the Department of Administration” for “as part of the Office of the Governor”, and substituted “board consisting of eight members” for “board consisting of seven members”; in subsection (C), substituted “Five members of the board” for “Four members of the board”; and in subsection (F), inserted “division” before “director”.

CROSS REFERENCES

Children’s Foster Care Review Board System Regulations see S.C. Code of Regulations R 24‑1 et seq.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑710.** Local boards for review.

 (A) There are created sixteen local boards for review of cases of children receiving foster care, one in each judicial circuit, composed of five members appointed by the Governor upon recommendation of the legislative delegation of each county within the circuit for terms of four years and until their successors are appointed and qualify. If the county legislative delegations within a judicial circuit have not recommended to the Governor a person to fill a review board vacancy within ninety days after being notified by certified mail that the vacancy exists, then the local review boards in the judicial circuit may recommend to the Governor someone to fill the vacancy. All local board members must be residents of the judicial circuit which they represent, except where a current or former member is substituting for an absent member. Local boards shall elect their chairman.

 (B) If the board of directors determines that additional local review boards are necessary in a judicial circuit because of an excessively large case load for review or if the local board is no longer necessary because of a reduced case load, the board may create or dissolve local review boards by resolution, and the boards created have all authority and duties provided for the boards by the provisions of this article.

 (C) In Dorchester County, appointments made pursuant to this section are governed by the provisions of Act 512 of 1996.

 (D) In Georgetown County, appointments made pursuant to this section are governed by the provisions of Act 515 of 1996.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑720.** Functions and powers of local boards.

 (A) The functions and powers of local foster care review boards are:

 (1) to review once every six months the cases of children who have resided in public foster care for a period of more than four consecutive months to determine what efforts have been made by the supervising agency or child caring facility to acquire a permanent home for the child. Once probable cause has been established to retain the child in foster care, the local review board shall have the discretion to review the case of any child who has been subjected to aggravated circumstances as set forth in Section 63‑7‑1640(C). Under no circumstances shall the local foster care review board review a child’s case more than three times in a twelve month period;

 (2) following review of a case pursuant to this section, the local foster care review board shall submit a written report and recommendations to the court concerning the case, which shall be addressed on the record by the court at the next permanency planning hearing pursuant to Section 63‑7‑1700(C)(1). In order for the report and recommendations of the Foster Care Review Board to be easily identifiable and accessible by the judge, the report and recommendations must be visually distinct from other documents in the case file in their coloring or other prominent aspect. A child’s return home for temporary placements, trial placements, visits, holidays, weekend visits, or changes from one foster care placement to another must not be construed to mean a break or lapse in determination of a consecutive four‑month period for children in public foster care;

 (3) to encourage the return of children to their natural parents, or, upon determination during a case review of the local review board that this return is not in the best interest of the child, to recommend to the appropriate agency action be taken for a maximum effort to place the child for adoption;

 (4) to promote and encourage all agencies and facilities involved in placing children in foster care to place children with persons suitable and eligible as adoptive parents;

 (5) to advise foster parents of their right to petition the family court for termination of parental rights and for adoption and to encourage these foster parents to initiate these proceedings in an appropriate case when it has been determined by the local review board that return to the natural parent is not in the best interest of the child;

 (6) to recommend that a child caring facility or agency exert all possible efforts to make arrangements for permanent foster care or guardianship for children for whom return to natural parents or adoption is not feasible or possible as determined during a case review by the local review board;

 (7) to report to the state office of the Department of Social Services and other adoptive or foster care agencies any deficiencies in these agencies’ efforts to secure permanent homes for children discovered in the local board’s review of these cases as provided for in item (1).

 (B) Any case findings or recommendations of a local review board are advisory.

HISTORY: 2008 Act No. 361, Section 2; 2016 Act No. 238 (H.4546), Section 5, eff June 5, 2016.

Effect of Amendment

2016 Act No. 238, Section 5, rewrote the section, changing certain functions or powers, including the frequency with which boards must review foster care cases.

CROSS REFERENCES

Exception to waiver of governmental immunity for acts or omissions of members of foster care review boards, see Section 15‑78‑60.

Family preservation, see Section 63‑7‑1640.

State Department of Social Services generally, see Sections 43‑1‑10 et seq.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Agency law. 43 S.C. L. Rev. 10 (Autumn 1991).

Attorney General’s Opinions

In construing phrase “a substantiated history of child abuse or neglect” reference may be made to provisions of Section 20‑7‑650 which provide for “affirmative determinations” of child abuse or neglect and which provide for establishment of Central Registry of Child Abuse and Neglect. If separate criminal conviction was obtained, such could be noted and would probably disqualify individual as having “a substantiated history of child abuse or neglect.” 1993 Op. Atty Gen No. 93‑47.

One who serves as a member of a county forestry commission, regional transportation authority, or county athletic commission would most probably hold an office for dual office holding purposes. One who would serve as a member of a local children’s foster care review board would most probably be deemed to be not holding an office for dual office holding purposes. 1987, Op. Atty Gen, No. 87‑101, p 266.

H.3669 should be read as being applicable to foster care placements and foster homes already in existence as of July 1, 1993. However, change regarding such children does not appear to be “automatic.” 1993 Op. Atty Gen No. 93‑47.

Court orders regarding placements which predate July 1, 1993 should be subject to court review in light of H.3669. 1993 Op. Atty Gen No. 93‑47.

In construing placements prohibited by H.3669, consideration should be given to all individuals residing in foster home and not just those who are licensed. 1993 Op. Atty Gen No. 93‑47.

Term “foster care” as used in H.3669 could be construed as including foster family home care, child caring facilities and residential group homes. 1993 Op. Atty Gen No. 93‑47.

NOTES OF DECISIONS

In general 1

1. In general

The family court did not abuse its discretion in allowing foster parents’ intervention in a proceeding to terminate parental rights since foster parents have standing to seek termination and the statutory scheme allows removal and termination to be considered together. Greenville County Dept. of Social Services v. Bowes (S.C. 1993) 313 S.C. 188, 437 S.E.2d 107, rehearing denied.

**SECTION 63‑11‑730.** Background checks for employees and board members.

 (A) No person may be employed by the Division for Review of the Foster Care of Children, within the Department of Administration, 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.

 (B) Before a person is employed by the Division for Review of the Foster Care of Children or before an appointment or reappointment is made to the state or a local foster care review board, the division shall submit the name of the potential employee or a list containing the names, addresses, and social security numbers of persons nominated to serve on the state or local boards to the Department of Social Services for a records check of indicated reports or affirmative determinations from the Central Registry of Child Abuse and Neglect and to SLED for a criminal records background check to certify that no potential employee or person nominated to serve on the state or a local board is in violation of subsection (A). A list of the persons employed by the division or serving on the state or local boards also must be submitted annually to the Department of Social Services for a records check of indicated reports or affirmative determinations to certify that no person employed by the division or serving on a board is in violation of subsection (A)(1). The division may not be charged by the Department of Social Services for these records checks.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.KK.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.KK2, in subsection (A), substituted “within the Department of Administration” for “Office of the Governor”.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑740.** Meetings of local boards; staffing.

 Local boards shall conduct meetings in the judicial circuit which they represent. Each board must be provided sufficient staff to perform its functions as set forth in this article with funds provided in the annual state general appropriations act. Members of the local boards and former members substituting for an absent member may not receive compensation for their services but must be allowed mileage, per diem, and subsistence as provided by law for state boards, committees, and commissions for attendance at board meetings. If needed to ensure a quorum at a board meeting, a current or former member of a local board may serve as a substitute on a board other than his own board, whether or not the substitute member is a resident of the judicial circuit of that board.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑750.** Participation in child abuse and neglect proceedings.

 (A) The Foster Care Review Board may participate, through counsel, in child abuse and neglect proceedings pursuant to Sections 63‑7‑1660, 63‑7‑1700, 63‑7‑2520 and in any hearing held pursuant to a motion filed by a named party or party in interest. Participation includes the opportunity to cross‑examine witnesses and to present its recommendation to the court.

 (B) This section does not require notice of any hearing to be served upon the Foster Care Review Board unless it is a party to the case.

 (C) If the Foster Care Review Board intends to participate in any hearing pursuant to this section, it shall inform the Department of Social Services, the court, and the guardian ad litem coordinator or counsel for the guardian ad litem of its intention to appear and participate in the hearing at least twenty‑four hours in advance of the hearing.

 (D) If the Foster Care Review Board intends to become a party to the action, it shall file a motion to intervene. There is a rebuttable presumption that the motion to intervene shall be granted absent a showing that intervention would be unjust or inappropriate in a particular case.

HISTORY: 2008 Act No. 361, Section 2; 2016 Act No. 238 (H.4546), Section 6, eff June 5, 2016.

Effect of Amendment

2016 Act No. 238, Section 6, rewrote the section, allowing the board to introduce, examine, and cross‑examine witnesses.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑760.** Immunity from liability.

 After participating in a training program of the system for the review of foster care of children, a local review board member is not liable for damages for personal injury as a result of an act or omission in the discharge of his duties as a member if he acts in good faith and his conduct does not constitute gross negligence, recklessness, wilfulness, or wantonness.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Exception to waiver of governmental immunity for acts or omissions of members of foster care review boards, see Section 15‑78‑60.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑770.** Cooperation of public and private agencies.

 All public and private agencies and facilities which provide for or arrange foster care for children shall cooperate with the board of directors and local review boards by making available for review records as may be requested.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑780.** Petitions for relief.

 A person or agency aggrieved by an action or recommendation of a local review board may seek relief by petition to the family court of that county which shall issue a rule to show cause why the action or recommendation of the local review board should not be set aside or modified.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑790.** Effect of article on other agencies.

 The provisions of this article may not be construed to limit or delay actions by agencies or facilities to arrange for adoptions, foster care, termination of parental rights, or other related matters on their own initiative, nor do the provisions of this article in any manner alter or restrict the duties and authority of these agencies and facilities in those matters.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

ARTICLE 9

South Carolina Children’s Trust Fund

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

|  |  |
| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑910 | 20‑7‑5010 |
| 63‑11‑920 | 20‑7‑5020 |
| 63‑11‑930 | 20‑7‑5030 |
| 63‑11‑940 | 20‑7‑5040 |
| 63‑11‑950 | 20‑7‑5050 |
| 63‑11‑960 | 20‑7‑5060 |

**SECTION 63‑11‑910.** Fund established.

 (A) There is established the Children’s Trust Fund of South Carolina, an eleemosynary corporation, the resources of which must be used to award grants to private nonprofit organizations and qualified state agencies in order to stimulate a broad range of innovative child abuse and neglect prevention programs to meet critical needs of South Carolina’s children.

 (B) The trust fund must accept gifts, bequests, and grants from any person or foundation. The trust fund must supplement and augment but not take the place of services provided by state agencies. A state agency is eligible to receive funds under this article only when the state agency:

 (1) proposes a program that meets grant qualifications under this article; and

 (2) provides matching funds in an amount at least equal to the grant to maximize the effectiveness of the grant.

 (C) The board of directors for the trust fund shall carry out activities necessary to administer the fund including assessing service needs and gaps, soliciting proposals to address identified service needs, and establishing criteria for the awarding of grants.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 273, Section 1.

CROSS REFERENCES

Registration of the Children’s Trust Fund with the Secretary of State, payment and fee, see Section 33‑56‑40.

State income tax return designation for contribution to fund, see Section 12‑6‑5060.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

Attorney General’s Opinions

One who would serve on the board of trustees of the Children’s Trust Fund of South Carolina would most probably not hold an office for dual office purposes. 1988 Op. Atty Gen, No. 88‑81, p 231.

**SECTION 63‑11‑920.** Board of directors; terms; filling vacancies; compensation; reports.

 There is created the Board of Directors for the Children’s Trust Fund of South Carolina composed of seventeen members appointed by the Governor, ten at large from the State from nominees of the Board of Directors of the Children’s Trust Fund, plus one from each of the state’s congressional districts. Members shall serve for terms of four years and until successors are appointed and qualify. Vacancies for any reason must be filled in the manner of the original appointment for the unexpired term.

 Members may be paid per diem, mileage, and subsistence as established by the board not to exceed the amounts provided by law for state boards, committees, and commissions. A complete report of the activities of the trust fund must be made annually to the General Assembly.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 273, Section 1; 2012 Act No. 279, Section 30, eff June 26, 2012.

Editor’s Note

2008 Act No. 273, Section 15 provides as follows:

“The members of the governing board of the Children’s Trust Fund of South Carolina serving on the effective date of this act shall continue to serve until the expirations of their terms, after which their successors must be appointed pursuant to Section 63‑11‑920 of the 1976 Code, as amended by this act. In appointing the eight additional at‑large directors provided pursuant to this act, four must be appointed for initial terms of two years and until their successors are appointed and qualify. The Governor shall note the terms on the appointment.”

2012 Act No. 279, Section 33, provides as follows:

“Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.”

Effect of Amendment

The 2012 amendment substituted “ten at large” for “eleven at large”.

Library References

Infants 17.

States 84, 127.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257, 386 to 387.

Attorney General’s Opinions

One who would serve on the board of trustees of the Children’s Trust Fund of South Carolina would most probably not hold an office for dual office purposes. 1988 Op. Atty Gen, No. 88‑81, p 231.

**SECTION 63‑11‑930.** Powers and duties.

 To carry out its assigned functions, the board is authorized, but not limited to:

 (1) assess the critical needs for child abuse and neglect prevention;

 (2) receive gifts, bequests, and devises for deposit and investment into the trust fund and to award grants to private nonprofit organizations and state agencies that meet certain qualifications;

 (3) invest trust fund monies;

 (4) solicit proposals for programs which will be aimed at meeting identified child abuse and neglect prevention needs;

 (5) provide technical assistance to private, nonprofit organizations, when requested, in preparing proposals for submission to the trust fund;

 (6) establish criteria for awarding of grants for child abuse and neglect prevention which shall include the consideration of at least:

 (a) the priority of the service need that the proposal addresses;

 (b) the quality and soundness of the proposal and its probable effectiveness in accomplishing its objectives;

 (c) a cost‑benefit analysis of the project;

 (d) the degree of community support for the proposal;

 (e) the utilization of local resources including volunteers, when appropriate, and matching or in‑kind contributions which may be, but are not required;

 (f) the qualifications of employees to be hired under the grant;

 (g) the experience of the proposed project administrators in providing on going accountability for the program;

 (7) enter into contracts for the awarding of grants to private, nonprofit organizations for child abuse and neglect prevention.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 273, Section 1.

Library References

Infants 17.

States 84, 127.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257, 386 to 387.

Attorney General’s Opinions

One who would serve on the board of trustees of the Children’s Trust Fund of South Carolina would most probably not hold an office for dual office purposes. 1988 Op. Atty Gen, No. 88‑81, p 231.

**SECTION 63‑11‑940.** Director.

 The board of directors may employ a director and other staff as necessary to carry out the duties and responsibilities assigned by the board.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 273, Section 1.

Library References

Infants 17.

States 84, 127.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 63‑11‑950.** Disbursement of funds.

 (A) The amount deposited in the trust fund from contributions plus all earnings from the investment of monies of the trust fund credited during the previous fiscal year, after allowances for operating expenses, is available for disbursement upon the authorization of the board of directors.

 (B) A quorum of the board members is necessary to authorize the disbursement of funds.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 273, Section 1.

Library References

Infants 17.

States 84, 123, 127.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 63‑11‑960.** Deposit and distribution of contributions pursuant to Section 12‑6‑5060.

 Funds from the receipt of contributions pursuant to Section 12‑6‑5060 must be deposited in the Trust Fund for disbursement as prescribed by this article.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 273, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, the reference to Section 12‑6‑2416 was corrected to reference Section 12‑6‑5060, as provided in 2008 Act No. 361 Section 2.

Library References

States 84, 122, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 373, 386 to 387.

ARTICLE 11

Children’s Case Resolution System

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

|  |  |
| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑1110 | 20‑7‑5210 |
| 63‑11‑1120 | 20‑7‑5220 |
| 63‑11‑1130 | 20‑7‑5230 |
| 63‑11‑1140 | 20‑7‑5240 |
| 63‑11‑1150 | 20‑7‑5245 |
| 63‑11‑1160 | 20‑7‑5250 |

CROSS REFERENCES

Department of Administration established, transfer of offices, divisions, other agencies, see Section 1‑11‑10.

**SECTION 63‑11‑1110.** Creation.

 There is created the Children’s Case Resolution System within the Department of Administration and referred to in this article as the system, which is a process of reviewing cases on behalf of children for whom the appropriate public agencies collectively have not provided the necessary services.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.LL.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.LL.1, rewrote the section substituting the Department of Administration for the Office of the Governor.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1120.** Purpose.

 The purposes of the System are:

 (1) to review cases of children referred to the System to determine the need to facilitate or recommend services for the children, or both, and to designate the responsibilities of each public agency as they relate to the children;

 (2) to arbitrate cases where the public agencies charged with administering services to a child are unable to agree upon the services to be provided or where the proportion of the expense for the services to be paid by the agencies cannot be agreed upon; and

 (3) to collectively review the cases of children to recommend changes or improvements, or both, in the delivery of service by public agencies serving children.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1130.** Requirements to be reviewed.

 (A) Cases may be reviewed by the System when there is a disagreement between the child’s parent and the local educational agency state operated programs, and all due process rights and procedures provided under Public Law 94‑142 have been exhausted or terminated by written agreement by the parties; or there is no disagreement between the child’s parent and the local educational agency state operated programs as to the services necessary for the child, but there has been an inability to obtain appropriate services.

 (B) Decisions made through the System are binding on all parties subject to item (5) of Section 63‑11‑1140. The decisions must comply with all principles of “least restrictive environment”, as used in Public Law 94‑142 and of the other provisions of the public law; must serve the children through their families and communities except where not possible; and must comply with all provisions of law regarding division of financial responsibility among public agencies, if any.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Children’s Case Resolution System to decide issues as to which agencies which are supposed to cooperate under Preschool Programs for Children with Disabilities are unable to agree on responsibilities for a particular child, see Section 59‑36‑20.

Federal Aspects

Public Law 94‑142, see 20 U.S.C.A. Sections 1232(d), 1401, and 1411‑1420.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1140.** Functions.

 The functions of the System include, but are not limited to, the following:

 (1) receive case referrals from any source;

 (2) review each case referred and continue in the System only the cases in which individual public agency and interagency efforts to resolve the case have been exhausted;

 (3) conduct meetings with public agency representatives designated by the System as relevant to the case for the purpose of obtaining the unanimous consent of the designated agencies in the development of a plan for each child and designating the responsibilities of each agency pursuant to that plan. Each agency requested by the System shall send a representative to the meetings and shall provide information and assistance as may be required by the System. Parties that have prior experience with the child or who logically are presumed to have service delivery responsibility for the child shall participate;

 (4) convene a committee composed of public agency heads designated by the System as relevant to the case when unanimous consent is not obtained as required in item (3) for the purpose of obtaining the unanimous consent of the designated agencies in determining the child’s service needs and designating the responsibilities of each agency as they relate to the child’s service needs. Each agency must be represented by the agency head or by a member of the agency staff having the power to make final decisions on behalf of the agency head;

 (5) when unanimous consent is not obtained as required in item (4), a panel must be convened composed of the following persons:

 (a) one public agency board member and one agency head appointed by the Governor. Recommendations for appointments may be submitted by the Human Services Coordinating Council. No member may be appointed who represents any agency involved in the resolution of the case;

 (b) one legislator appointed by the Governor; and

 (c) two members appointed by the Governor, drawn from a list of qualified individuals not employed by a child‑serving public agency, established in advance by the system, who have knowledge of public services for children in South Carolina.

 The chairman must be appointed by the Governor from members appointed as provided in subitem (c) of this item. A decision is made by a majority of the panel members present and voting, but in no case may a decision be rendered by less than three members. The panel shall review a case at the earliest possible date after sufficient staff review and evaluation pursuant to items (3) and (4) and shall make a decision by the next scheduled panel meeting. When private services are necessary, financial responsibility must be apportioned among the appropriate public agencies based on the reasons for the private services. Agencies designated by the panel shall carry out the decisions of the panel, but the decisions may not substantially affect the funds appropriated for the designated agency to such a degree that the intent of the General Assembly is changed. Substantial impact of the decisions must be defined by regulations promulgated by the Department of Administration. When the panel identifies similar cases that illustrate a break in the delivery of service to children, either because of restrictions by law or substantial lack of funding, the panel shall report the situation to the General Assembly and subsequently may not accept any similar cases for decision until the General Assembly takes appropriate action, however, the system may continue to perform the functions provided in items (3) and (4).

 Each member of the panel is entitled to subsistence, per diem, and mileage authorized for members of state boards, committees, and commissions. The respective agency is responsible for the compensation of the members appointed in subitems (a) and (b) of this item, and the system is responsible for the compensation of the members appointed in subitem (c) of this item;

 (6) monitor the implementation of case findings and panel recommendations to assure compliance with the decisions made by the System for each child;

 (7) recommend improvements for the purpose of enhancing the effective operation of the System and the delivery of service to children by public agencies;

 (8) submit an annual report on the activities of the system to the Governor, Director of the Department of Administration, the General Assembly, and agencies designated by the system as relevant to the cases; and

 (9) compile and transmit additional reports on the activities of the system and recommendations for service delivery improvements, as necessary, to the Governor and the Joint Citizens and Legislative Committee on Children.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.LL.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.LL.2, In the first undesignated paragraph following subsection (5)(c), substituted “Department of Administration” for “State Budget and Control Board”; in subsection (8), added “Director of the Department of Administration,”; in subsection (9), inserted “Citizens and”; and made other nonsubstantive changes.

CROSS REFERENCES

Children’s Case Resolution System to decide issues as to which agencies which are supposed to cooperate under Preschool Programs for Children with Disabilities are unable to agree on responsibilities for a particular child, see Section 59‑36‑20.

Department of Administration, generally, see Section 1‑11‑10 et seq.

Provision that decisions made through the System are binding on all parties, subject to certain provisions of this section, see Section 63‑11‑1130.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1150.** Placement of emotionally disturbed children out‑of‑state.

 Except as provided in this section, all emotionally disturbed children considered for placement in a substitute care setting outside South Carolina must be referred to the Children’s Case Resolution System. No child may be placed in a substitute care setting outside South Carolina without written explanation in the child’s records by the involved agencies. The explanation must include, but is not limited to, what services have been utilized within South Carolina and what resources have been secured outside this State that are not available within South Carolina. If the appropriate substitute care setting is located outside South Carolina but within fifty miles of the state line and is closer to the child’s home than an appropriate setting within South Carolina, the child’s case is not required to be referred to the Children’s Case Resolution System.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17, 229.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9, 43, 71 to 95.

**SECTION 63‑11‑1160.** Staffing and funding limitations.

 No additional staff nor state funds may be provided to carry out the administrative provisions of this article.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

ARTICLE 13

Continuum of Care for Emotionally Disturbed Children

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

|  |  |
| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑1310 | 20‑7‑5610 |
| 63‑11‑1320 | 20‑7‑5640 |
| 63‑11‑1330 | 20‑7‑5650 |
| 63‑11‑1340 | 20‑7‑5660 |
| 63‑11‑1350 | 20‑7‑5655 |
| 63‑11‑1360 | 20‑7‑5670 |

CROSS REFERENCES

Department of Administration established, transfer of offices, divisions, other agencies, see Section 1‑11‑10.

**SECTION 63‑11‑1310.** Purpose.

 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. This article supplements and does not supplant existing services provided to this population.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.MM.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.MM.2, substituted “as a division of the Department of Administration” for “in the office of the Governor”.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Health Section 112, Continuum of Care for Emotionally Disturbed Children.

**SECTION 63‑11‑1320.** Clients.

 (A)(1) The Continuum of Care serves children:

 (a) who have been diagnosed as severely emotionally disturbed;

 (b) who have exhausted existing available treatment resources or services;

 (c) whose severity of emotional, mental, or behavioral disturbance requires a comprehensive and organized system of care.

 (2) Priority in the selection of clients must be based on criteria to be established by the Continuum of Care.

 (B) Before a court refers a child to the Continuum of Care, it must be given the opportunity to evaluate the child and make a recommendation to the court regarding:

 (1) the child’s suitability for placement with the Continuum of Care pursuant to the provisions of this article, related regulations, and policies and procedures of administration and operation;

 (2) the agencies which offer services most appropriate to meet the child’s needs and the proportionate share of the costs among the agencies to meet those needs;

 (3) the necessity of obtaining other services for the child if the services provided in item (2) are not available through the existing service delivery system.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Regulations pertaining to the Continuum of Care for Emotionally Disturbed Children, see S.C. Code of Regulations R. 31‑10.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Health Section 112, Continuum of Care for Emotionally Disturbed Children.

**SECTION 63‑11‑1330.** Duties.

 The Continuum of Care shall perform the following duties and functions:

 (1) identify needs and develop plans to address the needs of severely emotionally disturbed children and youth;

 (2) coordinate planning, training, and service delivery among public and private organizations which provide services to severely emotionally disturbed children and youth;

 (3)(a) augment existing resources by providing or procuring services to complete the range of services needed to serve this population in the least restrictive, most appropriate setting. The scope of services includes, but is not limited to:

 (i) in‑home treatment programs;

 (ii) residential treatment programs;

 (iii) education services;

 (iv) counseling services;

 (v) outreach services;

 (vi) volunteer and community services;

 (b) provide needed services until they can be procured;

 (4) provide case management services directly;

 (5) supervise and administer the development and operation of its activities and services on a statewide regional basis.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1340.** Director and other staff; promulgation of regulations.

 The Governor may appoint a 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 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.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.MM.3, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.MM.3, substituted “appoint a Director of the Continuum of Care” for “employ a director” in the first sentence; inserted “division” before “director” in the third sentence; and substituted “department, upon the recommendation of the division director, may” for “division shall” in the last sentence.

CROSS REFERENCES

Administrative Procedures Act, see Sections 1‑23‑310 et seq.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1350.** Confidentiality.

 (A) Records, reports, applications, and files kept on any client or potential client of the Continuum of Care are confidential and only may be disclosed in order to develop or provide appropriate services for the client or potential client unless:

 (1) the client or potential client or his guardian consents;

 (2) a court orders the disclosure for conduct of proceedings before it upon a showing that disclosure is in the public interest;

 (3) disclosure is necessary for research conducted or authorized by the Continuum of Care; or

 (4) disclosure is necessary to any entity or state agency providing or potentially providing services to the client or potential client.

 (B) Nothing in this section:

 (1) precludes disclosure, upon proper inquiry, of information as to a client’s or potential client’s current condition to members of his family; or

 (2) requires the release of records of which disclosure is prohibited or regulated by federal law.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17, 133.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9, 43, 71 to 95.

**SECTION 63‑11‑1360.** Annual report.

 The Continuum of Care Division shall submit an annual report to the Department of Administration and General Assembly on its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.MM.4, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.MM.4, substituted “Department of Administration” for “Governor”.

Library References

Infants 17.

States 121.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 322 to 323, 372.

ARTICLE 15

Interagency System for Caring for Emotionally Disturbed Children

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

|  |  |
| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑1510 | 20‑7‑5710 |
| 63‑11‑1520 | 20‑7‑5720 |
| 63‑11‑1530 | 20‑7‑5730 |

**SECTION 63‑11‑1510.** System established.

 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, 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.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 121 (S.22), Pt V, Section 7.MM.5, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.MM.5, substituted “in the Department of Administration” for “of the Governor’s Office” in the first sentence.

CROSS REFERENCES

The Interagency System for Caring for Emotionally Disturbed Children, as provided for in this section, must be paid for solely by the Services Fund for Emotionally Disturbed Children and money in that fund must be used only to support the system, see Section 63‑11‑1530.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1520.** State agency responsibilities.

 The Department of Social Services, in conjunction with the other agencies involved in the Families First Initiative, shall design and manage a component of the Interagency System for Caring for Emotionally Disturbed Children, for families and children identified as in need of special support in the community or when necessary, in a substitute care setting. In an effort to reduce the number of children developing emotional and behavioral disorders, this component of the system must be designed to provide intense services for children who are at risk for removal or who must be removed from their families or who are having difficulty in substitute care and must include age appropriate substitute care. Services provided under this component of the system may be provided by the department to children who are not in the custody of the State. This component of the system must be implemented by January 1, 1995, and the department shall report quarterly to the Senate Finance Committee and the House Ways and Means Committee on the activities of this component of the system including, but not limited to, services provided clients served, and assessment of the progress and success of this component in carrying out the purposes of this section.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1530.** Services Fund.

 There is established the Services Fund for Emotionally Disturbed Children. The Interagency System for Caring for Emotionally Disturbed Children, as provided for in Section 63‑11‑1510, must be paid for solely by the fund and money in the fund must be used only to support the system. The fund must be administered by the Department of Social Services. The Department of Education shall continue to be billed a share of costs for covered children in the system as provided for under the Children’s Case Resolution System. The Department of Social Services, in conjunction with other agencies participating in the system, shall develop billing and management protocols that maximize the use of the funds available.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

States 127.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 386 to 387.

ARTICLE 17

First Steps to School Readiness Board of Trustees

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

|  |  |
| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑1710 | 20‑7‑9700 |
| 63‑11‑1720 | 20‑7‑9710 |
| 63‑11‑1730 | 20‑7‑9720 |
| 63‑11‑1740 | 20‑7‑9730 |
| 63‑11‑1750 | 20‑7‑9740 |

**SECTION 63‑11‑1710.** Board established.

 (A) There is established the South Carolina First Steps to School Readiness Board of Trustees, an eleemosynary corporation, which shall oversee the South Carolina First Steps to School Readiness initiative, a broad range of innovative early childhood development and education, family support, health services, and prevention efforts to meet critical needs of South Carolina’s children through the awarding of grants to partnerships at the county level as provided for in Section 59‑152‑90.

 (B) The board may accept gifts, bequests, and grants from any person or foundation. The fund and grants from the fund shall supplement and augment, but not take the place of, services provided by local, state, or federal agencies. The board of trustees shall carry out activities necessary to administer the fund including assessing service needs and gaps, soliciting proposals to address identified service needs, and establishing criteria for the awarding of grants.

HISTORY: 2008 Act No. 361, Section 2.

Editor’s Note

2006 Act No. 412, Section 2, provides in part as follows:

“Act 99 of 1999, South Carolina First Steps to School Readiness Act, is reauthorized until July 1, 2013.”

2013 Act No. 101, Section 117.114, provides as follows:

“117.114. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2013‑2014.”

2014 Act No. 286, Section 117.108, provides as follows:

“117.108. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2014‑2015.”

CROSS REFERENCES

Coordination with Department of Health and Environmental Control funded programs and services impacting children and families during the first years of a child’s life, see Section 44‑1‑280.

Coordination with Department of Social Services funded programs and services impacting children and families during the first years of a child’s life, see Section 43‑1‑240.

Library References

Infants 17.

States 84.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257.

**SECTION 63‑11‑1720.** Board of trustees; composition; study committee.

 (A) There is created the South Carolina First Steps to School Readiness Board of Trustees which must be chaired by the Governor, or his designee, and must include the State Superintendent of Education, or his designee, who shall serve as ex officio voting members of the board.

 (B) In making the appointments specified in subsection (C)(1), (2), and (3) of this section, the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall seek to ensure diverse geographical representation on the board by appointing individuals from each congressional district as possible.

 (C) The board shall include members appointed in the following manner:

 (1) the Governor shall appoint one member from each of the following sectors:

 (a) parents of young children;

 (b) business community;

 (c) early childhood educators;

 (d) medical providers;

 (e) child care and development providers; and

 (f) the General Assembly, one member from the Senate and one member from the House of Representatives;

 (2) the President Pro Tempore of the Senate shall appoint one member from each of the following sectors:

 (a) parents of young children;

 (b) business community;

 (c) early childhood educators; and

 (d) medical or child care and development providers;

 (3) the Speaker of the House of Representatives shall appoint one member from each of the following sectors:

 (a) parents of young children;

 (b) business community;

 (c) early childhood educators; and

 (d) medical or child care and development;

 (4) the chairman of the Senate Education Committee or his designee;

 (5) the chairman of the House Education and Public Works Committee or his designee; and

 (6) the chief executive officer of each of the following shall serve as an ex officio voting member:

 (a) Department of Social Services;

 (b) Department of Health and Environmental Control;

 (c) Department of Health and Human Services;

 (d) Department of Disabilities and Special Needs;

 (e) State Head Start Collaboration Officer; and

 (f) Children’s Trust of South Carolina.

 (D) The terms of the members are for four years and until their successors are appointed and qualify. The appointments of the members from the General Assembly shall be coterminous with their terms of office.

 (E) Vacancies for any reason must be filled in the manner of the original appointment for the unexpired term. A member may not serve more than two terms or eight years, whichever is longer. A member who misses more than three consecutive meetings without excuse or a member who resigns must be replaced in the same manner as his predecessor. Members may be paid per diem, mileage, and subsistence as established by the board not to exceed standards provided by law for boards, committees, and commissions. A complete report of the activities of the First Steps to School Readiness Board of Trustees must be made annually to the General Assembly.

 (F)(1) There is created the Office of First Steps Study Committee to review the structure, responsibilities, governance by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, and administration of the Office of First Steps. The goal of the study committee is to guarantee that children from birth to school‑age receive needed services from the Office of First Steps in the most effective way through coordination with other agencies that serve the same population. Also, the study committee shall determine whether the services provided by the Office of First Steps are provided in the most cost‑effective and direct manner to entities served by the Office of First Steps, including County First Steps Partnerships Boards. The study committee shall evaluate the structure and costs of the Office of First Steps becoming an independent agency and make a recommendation as to whether the Office of First Steps should become an agency, remain as a program at the Department of Education, be relocated within a state agency other than the Department of Education, or any other alternative structure the study committee deems fit. The study committee shall also address the issues concerning the governance of an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 relative to the structure recommended by the study committee. When making its recommendation as to the structure, the study committee must include an analysis of the costs associated with a change in structure. Such costs include, but are not limited to, personnel, data security, data management, and fiscal services.

 (2) The study committee shall be composed of:

 (a) four members of the Senate appointed by the Chairman of the Senate Education Committee. Of these members, one must be appointed upon the recommendation of the Senate Majority Leader, one must be appointed upon the recommendation of the Senate Minority Leader, and one must be a member of the South Carolina First Steps to School Readiness Board of Trustees;

 (b) four members of the House of Representatives appointed by the Chairman of the House Education and Public Works Committee. Of these members, one must be appointed upon the recommendation of the House Majority Leader, one must be appointed upon the recommendation of the House Minority Leader, and one must be a member of the South Carolina First Steps to School Readiness Board of Trustees;

 (c) one member appointed by the Governor, who shall serve as chairman;

 (d) the President of the Institute for Child Success, or his designee;

 (e) the Chairman of the Education Oversight Committee, or his designee; and

 (f) the Chairman of the Joint Citizens Legislative Committee on Children, or his designee.

 Except for the two members of South Carolina First Steps to School Readiness Board of Trustees appointed pursuant to subitems (a) and (b), no member of the study committee may be a member of the South Carolina First Steps to School Readiness Board of Trustees or a member of a County First Steps Partnership Board.

 (3) The study committee must be staffed by the staff of the Senate Education Committee and the House Education and Public Works Committee.

 (4) The study committee shall complete its review and submit its recommendation to the General Assembly no later than March 15, 2015. Upon submission of its recommendation, the study committee is dissolved.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 287 (H.3428), Section 20.A, eff June 18, 2014.

Editor’s Note

2013 Act No. 101, Section 117.114, provides as follows:

“117.114. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2013‑2014.”

2014 Act No. 286, Section 117.108, provides as follows:

“117.108. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2014‑2015.”

2015 Act No. 130, eff June 1, 2015, Section 1, provides as follows:

“SECTION 1. The deadline in Section 63‑11‑1720(F)(4) of the 1976 Code requiring the Office of First Steps Study Committee to complete its review and present its recommendations to the General Assembly, as provided in Section 20 of Act 287 of 2014, is extended from March 15, 2015, to January 1, 2016.”

Effect of Amendment

2014 Act No. 287, Section 20.A, rewrote the section.

CROSS REFERENCES

Comprehensive long‑range initiative, see Section 59‑152‑32.

Library References

Infants 17.

States 84.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257.

Attorney General’s Opinions

The Legislature intends for the Office of First Steps Study Committee to have discretion in the type of structure it recommends for the Office of First Steps, however, such structure must be similar or related in some manner to the ones enumerated in Section 63‑11‑1720(F)(1) and cannot be an entirely new structure. 2014 S.C. Op.Atty.Gen. (July 28, 2015) 2015 WL 4850413.

**SECTION 63‑11‑1725.** Advisory council.

 (A) For the purposes of this article, “advisory council” means the South Carolina Advisory Council established by Executive Order Number 2010‑06 in compliance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Section 9837b, et seq.

 (B) The membership of the advisory council is exclusively composed of the membership of the Board of Trustees of the South Carolina First Steps to School Readiness Initiative. Each voting and nonvoting member shall serve as a voting member of the South Carolina Advisory Council, concurrent with his service on the board.

 (C) The advisory council is an entity distinct from the Board of Trustees and must act accordingly to fulfill its responsibilities under 42 U.S.C. Section 9837b(b)(1)(D)(i) of the Improving Head Start for School Readiness Act of 2007. The advisory council shall keep separate minutes that explicitly distinguish its actions and votes from those made when acting in the capacity of the board of trustees. The advisory council must officially adjourn before acting as the board of trustees, and the board of trustees shall adjourn before acting as the advisory council.

 (D) The State Director of First Steps shall coordinate the activities of the advisory council. Pursuant to 42 U.S.C. Section 9837b(b)(1)(D)(i), the advisory council shall:

 (1) conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to the age of school entry, including an assessment of the availability of high‑quality prekindergarten services for low income children in the State;

 (2) identify opportunities for, and barriers to, collaboration and coordination among federally funded and state‑funded child development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering these programs;

 (3) develop recommendations for increasing the overall participation of children in existing federal, state, and local child care and early childhood education programs, including outreach to underrepresented and special populations;

 (4) develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the State;

 (5) develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the State;

 (6) assess the capacity and effectiveness of two‑year and four‑year public and private institutions of higher education in the State for supporting the development of early childhood educators, including the extent to which these institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or prekindergarten program;

 (7) make recommendations for improvements in state early learning standards and undertake efforts to develop high‑quality comprehensive early learning standards, as appropriate;

 (8) develop and publish, using available demographic data, an indicators‑based measure of school readiness at the state and community level;

 (9) incorporate, within the periodic statewide needs assessments required in 42 U.S.C. Section 9837b, any data related to the capacity and efforts of private sector providers, Head Start providers, and local school districts to serve children from birth to age five, including fiscal, enrollment, and capacity data; and

 (10) perform all other functions, as permitted under federal and state law, to improve coordination and delivery of early childhood education and development to children in this State.

 (E) The advisory council shall designate a meeting as its annual meeting. All of the chief executive officers of the state agencies represented on the Early Childhood Advisory Council must attend the annual meeting in person.

 (F) The advisory council shall prepare an annual report of its activities for presentation to the Governor and General Assembly.

HISTORY: 2014 Act No. 287 (H.3428), Section 4, eff June 18, 2014.

Federal Aspects

Improving Head Start for School Readiness Act of 2007; Pub.L. 110‑134, Dec. 12, 2007, 121 Stat. 1363, see 42 U.S.C.A. Section 9837b.

**SECTION 63‑11‑1730.** Board of trustees; promulgation of comprehensive long‑term initiative; regulations; policies.

 To oversee and be accountable for the South Carolina First Steps to School Readiness Initiative, in accordance with the APA, the board shall:

 (1) develop and promulgate a comprehensive long‑range initiative for improving early childhood development and increasing school readiness and literacy, which shall include the specific requirements of Chapter 152, Title 59;

 (2) in accordance with the APA, promulgate regulations and establish guidelines, policies, and procedures for the continued implementation of the South Carolina First Steps to School Readiness initiative;

 (3) provide oversight on the continued implementation and evaluation of the South Carolina First Steps to School Readiness initiative at the state and local levels;

 (4) establish and promulgate grant qualification requirements and a formula by which allocations for qualifying partnership grants shall be calculated;

 (5) ensure the provision of technical assistance, consultation services and support to First Steps Partnerships including: the creation and annual revision of county needs assessments; the prioritization, implementation, and evaluation of each First Steps Partnership’s strategic plans based on needs assessments; and the identification of assets from other funding sources;

 (6) assess and develop recommendations: for ensuring coordination and collaboration among service providers at both the state and county level, for increasing the efficiency and effectiveness of state programs and funding and other programs and funding sources, as allowable, as necessary to carry out the First Steps to School Readiness initiative, including additional fiscal strategies, redeployment of state resources, and development of new programs;

 (7) establish and promulgate results‑oriented measures and objectives and assess whether services provided by First Steps Partnerships to children and families are meeting the goals and achieving the results established for the First Steps initiative pursuant to Chapter 152, Title 59;

 (8) receive gifts, bequests, and devises for deposit for awarding grants to First Steps Partnerships;

 (9) report annually to the General Assembly by January first on activities and progress to include recommendations for changes and legislative initiatives and results of program evaluations;

 (10) establish and promulgate internal policies and procedures to allow the board to operate optimally, which shall include, but not be limited to, an established and consistent process for decision making;

 (11) develop, implement, and document an annual performance process for the Director of the Office of South Carolina First Steps;

 (12) establish and promulgate bylaws for adoption by local First Steps Partnerships;

 (13) establish and promulgate internal evaluation policies and procedures for local partnerships for annual review pursuant to Chapter 152, Title 59; and

 (14) arrange for the conduction of an independent external program evaluation pursuant to Chapter 152, Title 59.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 287 (H.3428), Section 21, eff June 18, 2014.

Editor’s Note

2013 Act No. 101, Section 117.114, provides as follows:

“117.114. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2013‑2014.”

2014 Act No. 286, Section 117.108, provides as follows:

“117.108. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2014‑2015.”

Effect of Amendment

2014 Act No. 287, Section 21, rewrote the section.

CROSS REFERENCES

Local partnership boards, grant funding, see Section 59‑152‑90.

Library References

Infants 17.

States 84.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257.

Attorney General’s Opinions

Discussion of the First Steps’ Board of Trustees appropriate exercise of responsibilities under this section and in accordance with the Administrative Procedures Act. S.C. Op.Atty.Gen. (May 29, 2015) 2015 WL 3636393.

**SECTION 63‑11‑1735.** BabyNet; definitions; compliance with federal law.

 (A) For the purposes of this article:

 (1) “BabyNet” is the interagency early intervention system that is the Part C program in South Carolina.

 (2) “I.D.E.A.” means the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400, et seq.

 (3) “Maintenance of effort” means the requirement of Part C that relevant state and local agencies maintain a specified level of financial support for early intervention services in compliance with 34 C.F.R. 303.124.

 (4) “Part C program” means a program of early intervention services to infants and toddlers with disabilities required in each state by I.D.E.A. and for which South Carolina First Steps to School Readiness is designated as the lead agency to administer the Part C program in South Carolina by Executive Order Number 2009‑12 in compliance with Subchapter VIII, Chapter 33, Title 20, U.S. Code Annotated relating to Head Start programs, and as provided in Section 44‑7‑2520(A), which relates to definitions concerning the South Carolina Infants and Toddlers with Disabilities Act.

 (B) First Steps shall ensure that BabyNet complies with the maintenance of effort requirement by coordinating with all agencies that provide early intervention services in this State to ensure they each properly document all Part C expenditures annually.

HISTORY: 2014 Act No. 287 (H.3428), Section 5, eff June 18, 2014.

**SECTION 63‑11‑1740.** Director and staff.

 The South Carolina First Steps to School Readiness Board of Trustees shall employ, by a majority vote, a director of the Office of South Carolina First Steps to School Readiness and other staff as necessary to carry out the South Carolina First Steps to School Readiness initiative, established in Title 59, Chapter 152, and other duties and responsibilities as assigned by the board. The director, with the approval of the board, shall hire such staff as is considered necessary to carry out the provisions of the initiative.

HISTORY: 2008 Act No. 361, Section 2.

Editor’s Note

2013 Act No. 101, Section 117.114, provides as follows:

“117.114. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2013‑2014.”

2014 Act No. 286, Section 117.108, provides as follows:

“117.108. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2014‑2015.”

Library References

Infants 17.

States 84.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257.

**SECTION 63‑11‑1750.** Funding.

 (A) A separate fund must be established to accept nongovernmental grants, gifts, and donations from any public or private source for the South Carolina First Steps to School Readiness initiative. Each donor may designate up to one‑half of their contribution to specific counties or a county. Both the designated and undesignated funds may be used to meet the local match required in Section 59‑152‑130. All funds may be carried forward from fiscal year to fiscal year. The State Treasurer shall invest the monies in this fund in the same manner as other funds under his control are invested and all interest derived from the investment of these funds shall remain in the fund. The South Carolina First Steps to School Readiness Board of Trustees shall administer and authorize any disbursements from the fund. Private individuals and groups must be encouraged to contribute to this endeavor.

 (B) In addition, a separate fund within the state general fund must be established for monies that may be appropriated by the General Assembly for the South Carolina First Steps to School Readiness initiative. These funds may be carried forward from fiscal year to fiscal year. The State Treasurer shall invest the monies in this fund in the same manner as other funds under his control are invested. The South Carolina First Steps to School Readiness Board of Trustees shall administer and authorize any disbursements from the fund.

 (C) All interest derived from the investment of the funds in subsections (A) and (B) shall remain a part of each respective fund.

HISTORY: 2008 Act No. 361, Section 2.

Editor’s Note

2013 Act No. 101, Section 117.114, provides as follows:

“117.114. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2013‑2014.”

2014 Act No. 286, Section 117.108, provides as follows:

“117.108. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, is reauthorized for the duration of Fiscal Year 2014‑2015.”

CROSS REFERENCES

State income tax return designation for contribution to fund, see Section 12‑6‑5060.

Library References

Infants 17.

States 84, 127.

Westlaw Topic Nos. 211, 360.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

C.J.S. States Sections 254 to 257, 386 to 387.

ARTICLE 19

Department of Child Fatalities and The State Child Fatality Advisory Committee

Showing the sections in former Chapter 7, Title 20 from which the sections in this article were derived.

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| --- | --- |
|  |  |
| NewSection | FormerSection |
| 63‑11‑1900 | 20‑7‑5902 |
| 63‑11‑1910 | 20‑7‑5900 |
| 63‑11‑1920 | 20‑7‑5905 |
| 63‑11‑1930 | 20‑7‑5910 |
| 63‑11‑1940 | 20‑7‑5915 |
| 63‑11‑1950 | 20‑7‑5920 |
| 63‑11‑1960 | 20‑7‑5930 |
| 63‑11‑1970 | 20‑7‑5940 |
| 63‑11‑1980 | 20‑7‑5950 |
| 63‑11‑1990 | 20‑7‑5960 |

**SECTION 63‑11‑1900.** Policy.

 It is the policy of this State that:

 (1) every child is entitled to live in safety and in health and to survive into adulthood;

 (2) responding to child deaths is a state and a community responsibility;

 (3) when a child dies, the response by the State and the community to the death must include an accurate and complete determination of the cause of death, the provision of services to surviving family members, and the development and implementation of measures to prevent future deaths from similar causes and may include court action, including prosecution of persons who may be responsible for the death and family court proceedings to protect other children in the care of the responsible person;

 (4) professionals from disparate disciplines and agencies who have responsibilities for children and expertise that can promote child safety and well‑being should share their expertise and knowledge toward the goals of determining the causes of children’s deaths, planning and providing services to surviving children and nonoffending family members, and preventing future child deaths;

 (5) a greater understanding of the incidence and causes of child deaths is necessary if the State is to prevent future child deaths;

 (6) multi‑disciplinary and multi‑agency reviews of child deaths can assist the State in the investigation of child deaths, in the development of a greater understanding of the incidence and causes of child deaths and the methods for preventing such deaths, and in identifying gaps in services to children and families;

 (7) access to information regarding deceased children and their families by the Department of Child Fatalities is necessary to achieve the department’s purposes and duties; and

 (8) competent investigative services must be sensitive to the needs of South Carolina’s children and their families and not unnecessarily intrusive and should be achieved through training, awareness, and technical assistance.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1910.** Definitions.

 For purposes of this article:

 (1) “Child” means a person under eighteen years of age.

 (2) “Committee” means the State Child Fatality Advisory Committee.

 (3) “Department” means the State Law Enforcement Division’s Department of Child Fatalities.

 (4) “Local child protective services agency” means the county department of social services for the jurisdiction where a deceased child resided.

 (5) “Meeting” means both in‑person meetings and meetings through telephone conferencing.

 (6) “Preventable death” means a death which reasonable medical, social, legal, psychological, or educational intervention may have prevented.

 (7) “Provider of medical care” means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.

 (8) “Working day” means Monday through Friday, excluding official state holidays.

 (9) “Unexpected death” includes all child deaths which, before investigation, appear possibly to have been caused by trauma, suspicious or obscure circumstances, or child abuse or neglect.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1920.** Department established.

 There is created within the State Law Enforcement Division (SLED) the Department of Child Fatalities which is under the supervision of the Chief of SLED.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

State Law Enforcement Division (SLED), see Sections 23‑3‑10 et seq.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1930.** Committee established.

 (A) There is created a State Child Fatality Advisory Committee composed of:

 (1) the Director of the South Carolina Department of Social Services;

 (2) the Director of the South Carolina Department of Health and Environmental Control;

 (3) the State Superintendent of Education;

 (4) the Executive Director of the South Carolina Criminal Justice Academy;

 (5) the Chief of the State Law Enforcement Division;

 (6) the Director of the Department of Alcohol and Other Drug Abuse Services;

 (7) the Director of the State Department of Mental Health;

 (8) the Director of the Department of Disabilities and Special Needs;

 (9) the Director of the Department of Juvenile Justice;

 (10) the Chief Executive Officer of the Children’s Trust of South Carolina;

 (11) one senator to be appointed by the President Pro Tempore of the Senate;

 (12) one representative to be appointed by the Speaker of the House of Representatives;

 (13) an attorney with experience in prosecuting crimes against children;

 (14) a county coroner or medical examiner;

 (15) a board certified or eligible for board certification child abuse pediatrician, appointed from recommendations submitted by the State Chapter of the American Academy of Pediatrics;

 (16) a solicitor;

 (17) a forensic pathologist; and

 (18) two members of the public at large, one of whom shall represent a private nonprofit organization that advocates children services.

 (B) Those members in items (1)‑(12) shall serve ex officio and may appoint a designee to serve in their place from their particular departments or agencies who have administrative or program responsibilities for children and family services. The Governor shall appoint the remaining members, including the coroner or medical examiner and solicitor who shall serve ex officio for terms of four years and until their successors are appointed and qualify.

 (C) The committee shall elect a chairman and vice chairman by a majority vote of the membership, each for a term of two years.

 (D) The committee shall hold meetings at least quarterly. A majority of the committee, excluding the committee members in subsection (A)(11) and (12) or their designees, constitutes a quorum.

 (E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

HISTORY: 2008 Act No. 361, Section 2; 2014 Act No. 203 (H.4408), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 203, Section 1, added subsections (A)(10), (A)(11), and (A)(12), and redesignated the subsections accordingly; in subsection (A)(15), substituted “a board certified or eligible for board certification child abuse pediatrician” for “a pediatrician with experience in diagnosing and treating child abuse and neglect”; in subsection (A)(18), substituted “whom shall” for “which must”; and rewrote subsections (B), (C), and (D).

CROSS REFERENCES

Commissioner of Department of Mental Health, see Section 44‑9‑40.

Department of Alcohol and other Drug Abuse Services, see Section 44‑49‑10.

Department of Disabilities and Special needs, see Sections 44‑20‑240 et seq.

Director of Department of Health and Environmental Control, see Section 44‑1‑40.

Director of Department of Social Services, see Section 43‑1‑50.

Director of Disabilities and Special needs, see Section 44‑20‑220.

SLED (State Law Enforcement Division), see Section 23‑3‑10.

Superintendent of Education, see Sections 59‑3‑10, 59‑3‑30.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1940.** Purpose and duties of department.

 (A) The purpose of the department is to expeditiously investigate child deaths in all counties of the State.

 (B) To achieve its purpose, the department shall:

 (1) upon receipt of a report of a child death from the county coroner or medical examiner, as required by Section 17‑5‑540, investigate and gather all information on the child fatality. The coroner or medical examiner immediately shall request an autopsy if SLED determines that an autopsy is necessary. The autopsy must be performed by a pathologist with forensic training as soon as possible. The pathologist shall inform the department of the findings within forty‑eight hours of completion of the autopsy. If the autopsy reveals the cause of death to be pathological or an unavoidable accident, the case must be closed by the department. If the autopsy reveals physical or sexual trauma, suspicious markings, or other findings that are questionable or yields no conclusion to the cause of death, the department immediately must begin an investigation;

 (2) request assistance of any other local, county, or state agency to aid in the investigation;

 (3) upon receipt of additional investigative information, reopen a SLED case, and request in writing as soon as possible for the coroner to reopen a case for another coroner’s inquest;

 (4) upon receipt of the notification required by item (1), review agency records for information regarding the deceased child or family. Information available to the department pursuant to Section 63‑11‑1960 and information which is public under Chapter 4, Title 30, the Freedom of Information Act, must be available as needed to the county coroner or medical examiner and county department of social services;

 (5) report the activities and findings related to a child fatality to the State Child Fatality Advisory Committee;

 (6) develop a protocol for child fatality reviews;

 (7) develop a protocol for the collection of data regarding child deaths as related to Section 17‑5‑540 and provide training to local professionals delivering services to children, county coroners and medical examiners, and law enforcement agencies on the use of the protocol;

 (8) study the operations of local investigations of child fatalities, including the statutes, regulations, policies, and procedures of the agencies involved with children’s services and child death investigations;

 (9) examine confidentiality and access to information statutes, regulations, policies, and procedures for agencies with responsibilities for children, including, but not limited to, health, public welfare, education, social services, mental health, alcohol and other substance abuse, and law enforcement agencies and determine whether those statutes, regulations, policies, or procedures impede the exchange of information necessary to protect children from preventable deaths. If the department identifies a statute, regulation, policy, or procedure that impedes the necessary exchange of information, the department shall notify the committee and the agencies serving on the committee and the committee shall include proposals for changes to statutes, regulations, policies, or procedures in the committee’s annual report;

 (10) develop a Forensic Pathology Network available to coroners and medical examiners for prompt autopsy findings;

 (11) submit to the Governor and the General Assembly, an annual report and any other reports prepared by the department, including, but not limited to, the department’s findings and recommendations;

 (12) promulgate regulations necessary to carry out its purposes and responsibilities under this article.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

SLED (State Law Enforcement Division), see Sections 23‑3‑10 et seq.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1950.** Purpose and duties of committee.

 (A) The purpose of the State Child Fatality Advisory Committee is to decrease the incidences of preventable child deaths by:

 (1) developing an understanding of the causes and incidences of child deaths;

 (2) developing plans for and implementing changes within the agencies represented on the committee which will prevent child deaths; and

 (3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent child deaths.

 (B) To achieve its purpose, the committee shall:

 (1) meet with the department no later than one month after the department receives notification by the county coroner or medical examiner pursuant to Section 17‑5‑540 to review the investigation of the death;

 (2) undertake annual statistical studies of the incidences and causes of child fatalities in this State. The studies shall include an analysis of community and public and private agency involvement with the decedents and their families before and subsequent to the deaths;

 (3) the committee shall consider training, including cross‑agency training, consultation, technical assistance needs, and service gaps. If the committee determines that changes to any statute, regulation, policy, or procedure is needed to decrease the incidence of preventable child deaths, the committee shall include proposals for changes to statutes, regulations, policies, and procedures in the committee’s annual report;

 (4) educate the public regarding the incidences and causes of child deaths, the public role in preventing these deaths, and specific steps the public can undertake to prevent child deaths. The committee shall enlist the support of civic, philanthropic, and public service organizations in performing the committee’s education duties;

 (5) develop and implement policies and procedures for its own governance and operation;

 (6) submit to the Governor and the General Assembly, an annual written report and any other reports prepared by the committee, including, but not limited to, the committee’s findings and recommendations. Annual reports must be made available to the public.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1960.** Access to information.

 Upon request of the department and as necessary to carry out the department’s purpose and duties, the department immediately must be provided:

 (1) by a provider of medical care, access to information and records regarding a child whose death is being reviewed by the department, including information on prenatal care;

 (2) access to all information and records maintained by any state, county, or local government agency, including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the child or family, including information made strictly confidential in Section 63‑7‑940 concerning unfounded reports of abuse or neglect.

HISTORY: 2008 Act No. 361, Section 2.

CROSS REFERENCES

Certain confidentiality provisions pertaining to local child protective agencies do not apply to information requested under this section, see Section 63‑7‑940.

Library References

Health 257.

Infants 17, 133.

Westlaw Topic Nos. 198H, 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Hospitals Section 20.

C.J.S. Infants Sections 6, 8 to 9, 43, 71 to 95.

**SECTION 63‑11‑1970.** Subpoena power.

 When necessary in the discharge of the duties of the department and upon application of the department, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to any representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department’s duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1980.** Confidentiality of meetings.

 (A) Meetings of the committee and department are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing individual cases of child deaths.

 (B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing individual cases of child deaths.

 (C) Information identifying a deceased child or a family member, guardian, or caretaker of a deceased child, or an alleged or suspected perpetrator of abuse or neglect upon a child may not be disclosed during a public meeting and information regarding the involvement of any agency with the deceased child or family may not be disclosed during a public meeting.

 (D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9.

**SECTION 63‑11‑1990.** Confidentiality of information.

 (A) All information and records acquired by the committee and by the department in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee’s and department’s duties and purposes.

 (B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

 (C) Reports of the committee and department which do not contain information that would permit the identification of a person to be ascertained are public information.

 (D) Except as necessary to carry out the committee’s and department’s purposes and duties, members of the committee and department and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 63‑11‑1970 and may not disclose information, the disclosure of which is prohibited by this section.

 (E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection may be construed to prevent a person from testifying to information obtained independently of the committee or which is public information.

 (F) Information, documents, and records of the committee and department are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

 (G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

HISTORY: 2008 Act No. 361, Section 2.

Library References

Infants 17, 133.

Westlaw Topic No. 211.

C.J.S. Adoption of Persons Sections 10 to 14, 41.

C.J.S. Infants Sections 6, 8 to 9, 43, 71 to 95.

ARTICLE 21

Military‑Connected Children’s Welfare Task Force

**SECTION 63‑11‑2110.** Military‑Connected Children’s Welfare Task Force.

 (A) There is created the “Military‑Connected Children’s Welfare Task Force” for the purpose of identifying issues related to military‑connected children and opening communication between child welfare agencies of this State and local military installations. The task force shall study issues relating to military‑connected children as the task force may undertake or as may be requested by the General Assembly.

 (B) The task force is to be comprised of the following members:

 (1) the Director of the Department of Health and Human Services, or his designee;

 (2) the Governor, or his designee;

 (3) the Speaker of the House of Representatives, or his designee;

 (4) the President Pro Tempore of the Senate, or his designee; and

 (5) a representative of the Children’s Trust Fund.

 (C) The task force shall meet as soon as practicable after the effective date of this act for organizational purposes.

 (D) The task force shall submit an annual written report to the General Assembly including recommendations to facilitate and open communication between child welfare agencies of this State and local military installations. The findings and recommendations of the task force shall be posted on the Department of Health and Human Services’ website.

 (E) The members of the task force shall serve without compensation and may not receive mileage or per diem.

HISTORY: 2014 Act No. 289 (S.825), Pt IV, Section 4, eff June 23, 2014.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Children and Families Section 156, Factors and Standards in General.