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Indicates New Matter

COMMITTEE REPORT

March 17, 2010

**S. 1172**

Introduced by Senators Fair, Hutto, Jackson, Alexander, Ford, L. Martin, Campbell and Rose

S. Printed 3/17/10--S.

Read the first time February 11, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1172) to amend Section 63‑7‑1640, Code of Laws of South Carolina, 1976, relating to the Department of Social Services providing reasonable efforts to achieve, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language and inserting therein the following:

/ SECTION 1. Section 63‑7‑1640 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1640. (A) When this chapter requires the department to make reasonable efforts to preserve or reunify a family and requires the family court to determine whether these reasonable efforts have been made, the child’s health and safety must be the paramount concern.

(B) The family court may rule on whether reasonable efforts to preserve or reunify a family should be required in hearings regarding removal of custody, review of amendments to a placement plan, review of the status of a child in foster care, or permanency planning or in a separate proceeding for this purpose. The court may consider this issue on the motion of a named party, the child’s guardian ad litem, or the foster care review board, provided that the foster care review board has reviewed the case pursuant to Section 63-11-720 or the child has previous entry into foster care.

(C) The family court may authorize the department to terminate or forego reasonable efforts to preserve or reunify a family when the records of a court of competent jurisdiction show or when the family court determines that one or more of the following conditions exist:

(1) the parent has subjected the child or another child while residing in the parent’s domicile to one or more of the following aggravated circumstances:

(a) severe or repeated abuse;

(b) severe or repeated neglect;

(c) sexual abuse;

(d) acts ~~that~~ the judge ~~may find~~ finds constitute torture; or

(e) abandonment;

(2) the parent has been convicted of or pled guilty or nolo contendere to murder of another child ~~of the parent~~, or an equivalent offense, in this jurisdiction or another;

(3) the parent has been convicted of or pled guilty or nolo contendere to voluntary manslaughter of another child ~~of the parent~~, or an equivalent offense, in this jurisdiction or another;

(4) the parent has been convicted of or pled guilty or nolo contendere to aiding, abetting, attempting, soliciting, or conspiring to commit murder or voluntary manslaughter ~~pursuant to item (1), (2), or (3),~~ of the child or another child while residing in the parent’s domicile, or an equivalent offense, in this jurisdiction or another;

(5) physical abuse of a child ~~of the parent~~ resulted in the death or admission to the hospital for in‑patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting:

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

(b) criminal domestic violence, as defined in Section 16‑25‑20;

(c) criminal domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65; or

(d) the common law offense of assault and battery of a high and aggravated nature, or an equivalent offense in another jurisdiction;

(6) the parental rights of the parent to ~~a sibling of the child~~ another child of the parent have been terminated involuntarily;

(7) the parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child;

(8) other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the permanent plan for the child.

(D) The department may proceed with efforts to place a child for adoption or with a legal guardian concurrently with making efforts to prevent removal or to make it possible for the child to return safely to the home.

(E) If the family court’s decision that reasonable efforts to preserve or reunify a family are not required results from a hearing other than a permanency planning hearing, the court’s order shall require that a permanency planning hearing be held within thirty days of the date of the order.

(F) In determining whether to authorize the department to terminate or forego reasonable efforts to preserve or reunify a family, the court must consider whether initiation or continuation of reasonable efforts to preserve or reunify the family is in the best interests of the child. If the court authorizes the department to terminate or forego reasonable efforts to preserve or reunify a family, the court must make specific written findings in support of its conclusion that one or more of the conditions set forth in (C)(1) through (7) are shown to exist, and why continuation of reasonable efforts is not in the best interest of the child. If the court does not authorize the department to terminate or forego reasonable efforts where one or more of the conditions set forth in (C)(1) through (7) are shown to exist, the court must make specific written findings in support of its conclusion that continuation of reasonable efforts is in the best interest of the child. The court must not consider the availability or lack of an adoptive resource as a reason to deny the request to terminate or forego reasonable efforts.

(G) In any case in which the court authorizes the department to terminate or forego reasonable efforts to preserve or reunify a family, the department shall file a petition for termination of parental rights within sixty days, unless there are compelling reasons why termination of parental rights would be contrary to the best interests of the child.”

SECTION 2. Section 63‑7‑1660(B)(2) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(2) The petition for removal may include a petition for termination of parental rights. The petition for removal must include a petition for termination of parental rights if court records or other evidence indicate the existence of one or more of the conditions set forth in Section 63‑7‑1640(C)(1) through (7), unless there are compelling reasons for believing that termination of parental rights would be contrary to the best interests of the child.”

SECTION 3. Section 63‑7‑1680 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1680. (A) If the court orders that a child be removed from the custody of the parent or guardian, the court must approve a placement plan. A plan must be presented to the court for its approval at the removal hearing or within ten days after the removal hearing. If the plan is presented subsequent to the removal hearing, the court shall hold a hearing on the plan if requested by a party. The plan must be a written document prepared by the department. To the extent possible, the plan must be prepared with the participation of the parents or guardian of the child, the child, and any other agency or individual that will be required to provide services in order to implement the plan.

(B) ~~The placement plan shall include, but is not limited to:~~

~~(1)~~ ~~the specific reasons for removal of the child from the custody of the parent or guardian and the changes that must be made before the child may be returned, including:~~

~~(a)~~ ~~the nature of the harm or threatened harm that necessitated removal, a description of the problems or conditions in the home that caused the harm or threatened harm, and the reason why the child could not be protected without removal;~~

~~(b)~~ ~~the nature of the changes in the home and family situation that must be made in order to correct the problems and conditions that necessitated removal, time frames for accomplishing these objectives, and means for measuring whether the objectives have been accomplished. The objectives stated in this part of the plan must relate to problems and circumstances serious enough to justify removal. The plan must be oriented to correcting these problems and circumstances in the shortest possible time in order to expedite the child’s return to the home;~~

~~(c)~~ ~~specific actions to be taken by the parents or guardian of the child to accomplish the objectives identified in subitem (b) and time frames for taking these actions;~~

~~(2)~~ ~~other conditions in the home that warrant state intervention, but would not alone have been sufficient to warrant removal, and the changes that must be made in order to terminate intervention, including:~~

~~(a)~~ ~~the nature of the harm or threatened harm that justifies state intervention and a description of the problems or conditions of the home that caused the harm or threatened harm;~~

~~(b)~~ ~~the nature of the changes in the home and family situation that must be made in order to correct the problems and conditions that caused the harm or threatened harm, time frames for accomplishing these objectives, and means for measuring whether the objectives have been accomplished;~~

~~(c)~~ ~~specific actions to be taken by the parents or guardian of the child to accomplish the objectives identified in subitem (b) and time frames for taking these actions;~~

~~(3)~~ ~~the social and other services to be provided or made available to the parents, guardian, or other relevant adult to assist the parents or guardian in accomplishing the objectives, including a specific finding as to the minimum number and frequency of contacts a caseworker with the department must have with the child while in foster care. For a child placed in foster care within this State, the caseworker must meet with the child, at a minimum, once a month, but based upon the particular needs and circumstances of the individual child, more frequent contacts may be ordered by the court;~~

~~(4)~~ ~~the financial responsibilities and obligations, if any, of the parents or guardian for the support of the child during the placement;~~

~~(5)~~ ~~the visitation rights and obligations of the parents, guardian, siblings, or other relatives of the child during the placement. The plan shall provide for as much contact as is reasonably possible and consistent with the best interests of the child between the child and the child’s parents, guardian, siblings, and other appropriate relatives with whom the child has a close relationship including visitation and participation of the parents or guardian in the care of the child while the child is in placement;~~

~~(6)~~ ~~the nature and location of the placement of the child unless it is determined that disclosure of the location of the placement to the parents, guardian, or any other person would be contrary to the best interest of the child. In making its determination of whether disclosure of the location of the placement is in the best interest of the child, the department must consider evidence of sexual abuse, physical abuse, or substance abuse by an adult living in the child’s home or evidence of criminal domestic violence in the child’s home. When disclosure of the location of the placement is determined to be contrary to the best interest of the child, disclosure must not be made to the abusing party or to any member of the abusing party’s household. The placement must be as close to the child’s home as is reasonably possible, unless placement at a greater distance is necessary to promote the child’s well‑being. In the absence of good cause to the contrary, preference must be given to placement with a relative or other person who is known to the child and has a constructive and caring relationship with the child;~~

~~(7)~~ ~~the social and other supportive services to be provided to the child and the foster parents including counseling or other services to assist the child in dealing with the effects of separation from the child’s home and family;~~

~~(8)~~ ~~if the parents or guardian were not involved in the development of the plan, the nature of the agency’s efforts to secure parental participation;~~

~~(9)~~ ~~notice to the parents or guardians that failure to substantially accomplish the objectives stated in the plan within the time frames provided may result in termination of parental rights, subject to notice and a hearing as provided in Article 7.~~

The first section of the plan shall set forth the changes that must occur in the home and family situation before the child can be returned. These changes must be reasonably related to the reasons justifying removal of the child from the custody of the parents or guardian. This section of the plan must contain a notice to the parents or guardian that failure to make the indicated changes within six months may result in termination of parental rights.

(C) ~~The placement plan clearly shall state the conditions necessary to bring about return of the child and the reasonable efforts that will be made by the department to reunite the child with the child’s family. ‘Reasonable efforts’ include location of the placement and visitation arrangements as well as services to the parents or guardian and the child~~ The second section of the plan shall set forth:

(1) specific actions to be taken by the parents or guardian of the child; and

(2) social or other services to be provided or made available to the parent or guardian of the child.

This section of the plan must include time frames for commencement or completion of specific actions or services. This section must contain a notice to the parents or guardian that completion of the indicated actions will not result in return of the child unless the changes set forth in section one of the plan have occurred.

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

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

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

This section of the plan must include a notice to the parents or guardian that failure to support or visit the child as provided in the plan may result in termination of parental rights.

(E) The fourth section of the plan must address matters relating to the placement of the child including, but not limited to, the following:

(1) the nature and location of the placement of the child, unless there are compelling reasons for concluding that disclosure of the location of the placement to the parents, guardian, or other person would be contrary to the best interests of the child. The placement must be as close to the child’s home as is reasonably possible, unless there are compelling reasons for concluding that placement at a greater distance is necessary to promote the child’s wellbeing. In the absence of good cause to the contrary, preference must be given to placement with a relative or other person who is known to the child and who has a constructive and caring relationship with the child;

(2) visitation or other contact with siblings, other relatives, and other persons important to the child. The plan shall provide for as much contact between the child and these persons as is reasonably possible and consistent with the best interests of the child;

(3) social and other supportive services to be provided to the child and the foster parents, including counseling or other services to assist the child in dealing with the effects of separation from the child’s home and family; and

(4) the minimum number and frequency of contacts that a caseworker with the department will have with the child, which must be based on the particular needs and circumstances of the individual child but which must not be less than once a month for a child placed in this State.

(F) The court shall approve the plan only if it finds that:

(1) the plan is consistent with the court’s order placing the child in the custody of the department;

(2) the plan is consistent with the requirements for the content of a placement plan set forth in ~~subsection~~ subsections (B) through (E);

(3) if the parents or guardian of the child did not participate in the development of the plan, that the department made reasonable efforts to secure their participation; and

(4) the plan is meaningful and designed to address facts and circumstances upon which the court based the order of removal.

If the court determines that any of these criteria are not satisfied, the court shall require that necessary amendments to the plan be submitted to the court within a specified time but no later than seven days. A hearing on the amended plan must be held if requested by a party.

~~(E~~G) The court shall include in its order and shall advise defendants on the record that failure to ~~substantially accomplish the objectives stated in the plan within the time frames provided~~ remedy the conditions that caused the removal within six months, may result in termination of parental rights, subject to notice and a hearing as provided in Article 7. Before the court orders return of the child, the court must find that the changes in the home and family situation specified in section one of the plan have occurred and that the child can be safely returned to the home. Completion of the tasks specified in section two of the plan is not in itself sufficient basis for return of the child.

~~(F)~~(H) The department immediately shall give a copy of the plan to the parents or guardian of the child, and any other parties identified by the court, including the child if the court considers it appropriate. If a copy of the plan is not given to the child, the department shall provide the child with age‑appropriate information concerning the substance of the plan unless the court finds that disclosure of any part of the plan to the child would be inconsistent with the child’s best interests. A copy of any part of the plan that directly pertains to the foster family or the foster child must be provided to the foster parents.

~~(G~~I) The plan may be amended at any time if all parties agree ~~regarding~~ to the revisions, and the revisions are approved by the court. The amended plan must be submitted to the court with a written explanation for the proposed change. The plan also may be amended by the court upon motion of a party after a hearing based on evidence demonstrating the need for the amendment. A copy of the amended plan immediately must be given to the parties specified in subsection ~~(F). Any additions to the elements set forth in subsections (B)(1)(b) and (c) must relate to problems or conditions that are serious enough to justify removal of the child from the home based on the criteria in Section 63‑7‑1660(E)~~ (H).

~~(H~~J) Any objections to the sufficiency of a plan or the process by which a plan was developed must be made at the hearing on the plan. Failure to request a hearing or to enter an objection at the hearing constitutes a waiver of the objection. The sufficiency of the plan or of the process for developing the plan may not be raised as an issue in a proceeding for termination of parental rights under Article 7.

~~(I~~K) Upon petition of a party in interest, the court may order the state or county director or other authorized representative of the department to show cause why the agency should not be required to provide services in accordance with the plan. The provisions of the plan must be incorporated as part of a court order issued pursuant to this section. A person who fails to comply with an order may be held in contempt and subject to appropriate sanctions imposed by the court.”

SECTION 4. Section 63‑7‑1700 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1700. (A) The family court shall review the status of a child placed in foster care upon motion filed by the department to determine a permanent plan for the child. The permanency planning hearing must be held no later than one year after the date the child was first placed in foster care. At the initial permanency planning hearing, the court shall review the status of the child and the progress being made toward the child’s return home or toward any other permanent plan approved at the removal hearing. The court’s order shall make specific findings in accordance with this section. An action for permanency planning must be brought for a child who enters the custody of the department by any mechanism, including Subarticle 3 or Section 63‑7‑1660 or 63‑9‑330. If the child enters the custody of the department pursuant to Section 63‑9‑330 and no action is pending in the family court concerning the child, the department may initiate the permanency planning hearing with a summons and petition for review. All parties must be served with the motion or the summons and petition at least ten days before the hearing, and no responsive pleading is required.

(B) The department shall attach a supplemental report to the motion or ~~other pleadings~~ summons and petition which must contain at least:

(1) that information necessary to support findings required in ~~subsection~~ subsections (C) through (H), as applicable;

(2) the recommended permanent plan and suggested timetable for attaining permanence; ~~and~~

(3) a statement of whether or not the court has authorized the department to forego or terminate reasonable efforts pursuant to Section 63‑7‑1640; and

(4) any reports of the local foster care review board which pertain to the child.

The department may use the same form for the supplemental report, reports from the department to the local foster care review board, and reports compiled for internal department reviews.

(C) At the permanency planning hearing, the court shall review the department’s plan for achieving permanence for the child. If the department’s plan is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights, the department must show compelling reasons for the selection of another permanent plan. If the court approves a plan that is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights, the court must find compelling reasons for approval of the plan and that the plan is in the child’s best interests.

(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child’s parent would not cause an unreasonable risk of harm to the child’s life, physical health, safety, or mental ~~well‑being~~ wellbeing, the court shall order the child returned to the child’s parent. The court may order a specified period of supervision and services not to exceed twelve months. ~~When determining whether the child should be returned, the court shall consider all evidence and the supplemental report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 63‑7‑1680~~.

(E) Unless subsection (C), (F), or (G) applies, if the court determines at the permanency planning hearing that the child should not be returned to the child’s parent at that time, the court’s order shall require the department to file a petition to terminate parental rights to the child not later than sixty days after receipt of the order. If a petition to terminate parental rights is to be filed, the department shall exercise and document every reasonable effort to promote and expedite the adoptive placement and adoption of the child, including a thorough adoption assessment and child‑specific recruitment. Adoptive placements must be diligently sought for the child and failure to do so solely because a child is classified as ‘special needs’ is expressly prohibited. An adoption may not be delayed or denied solely ~~on these~~ because a child is classified as ‘special needs’. For purposes of this subsection:

(1) ‘thorough adoption assessment’ means conducting and documenting face‑to‑face interviews with the child, foster care providers, and other significant parties; and

(2) ‘child specific recruitment’ means recruiting an adoptive placement targeted to meet the individual needs of the specific child including, but not be limited to, use of the media, use of photo listings, and any other in‑state or out‑of‑state resources which may be utilized to meet the specific needs of the child, unless there are extenuating circumstances that indicate that these efforts are not in the best interest of the child.

(F) If the court determines that the criteria in subsection (D) are not met but that the child may be returned to the parent within a specified reasonable time not to exceed eighteen months after the child was placed in foster care, the court may order an extension of the plan approved pursuant to Section 63‑7‑1680 or may order compliance with a modified plan~~. Before continuing foster care for this purpose, the court must find that, at the time of the hearing, initiation of termination of parental rights is not in the best interests of the child and that the best interests of the child will be served by the extended or modified plan~~, but in no case may the extension for reunification continue beyond eighteen months after the child was placed in foster care. An extension may be granted pursuant to this section only if the court finds:

(1) that the parent has demonstrated due diligence and a commitment to correcting the conditions warranting the removal so that the child could return home in a timely fashion;

(2) that there are specific reasons to believe that the conditions warranting the removal will be remedied by the end of the extension;

(3) that the return of the child to the child’s parent would not cause an unreasonable risk of harm to the child’s life, physical health, safety, or mental wellbeing;

(4) that, at the time of the hearing, initiation of termination of parental rights is not in the best interest of the child; and

(5) that the best interests of the child will be served by the extended or modified plan.

(G) If after assessing the viability of adoption, the department demonstrates that termination of parental rights is not in the child’s best interests, ~~and if the court finds that the best interests of the child would be served,~~ the court may award custody or legal guardianship, or both, to a suitable, fit, and willing relative or nonrelative if the court finds this to be in the best interest of the child; however, a home study on the individual whom the department is recommending for custody of the child must be submitted to the court for consideration before custody ~~of~~ or legal guardianship, or both, are awarded. The court may order a specified period of supervision and services not to exceed twelve months, and the court may authorize a period of visitation or trial placement prior to receiving a home study.

(H) If at the initial permanency planning hearing the court does not order return of the child pursuant to subsection (D), in addition to those findings supporting the selection of a different plan, the court shall specify in its order:

(1) what services have been provided to or offered to the parents to facilitate reunification;

(2) the compliance or lack of compliance by all parties to the plan approved pursuant to Section 63‑7‑1680;

(3) the extent to which the parents have visited or supported the child and any reasons why visitation or support has not occurred or has been infrequent;

(4) whether previous services should continue and whether additional services are needed to facilitate reunification, identifying the services, and specifying the expected date for completion, which must be no longer than eighteen months from the date the child was placed in foster care;

(5) whether return of the child can be expected and identification of the changes the parent must make in circumstances, conditions, or behavior to remedy the causes of the child’s placement or retention in foster care;

(6) whether the child’s foster care is to continue for a specified time and, if so, how long;

(7) if the child has attained the age of sixteen, the services needed to assist the child to make the transition to independent living;

(8) whether the child’s current placement is safe and appropriate;

(9) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child’s placement or retention in foster care, unless the court has previously authorized the department to terminate or forego reasonable efforts pursuant to Section 63‑7‑1640; and

(10) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts.

(I) If after the permanency planning hearing, the child is retained in foster care, future permanency planning hearings must be held as follows:

(1) If the child is retained in foster care and the agency is required to initiate termination of parental rights proceedings, the termination of parental rights hearing may serve as the next permanency planning hearing, but only if it is held no later than one year from the date of the previous permanency planning hearing.

(2) If the court ordered extended foster care for the purpose of reunification with the parent, the court must select a permanent plan for the child other than another extension for reunification purposes at the next permanency planning hearing. The hearing must be held on or before the date specified in the plan for expected completion of the plan; in no case may the hearing be held any later than six months from the date of the last court order.

(3) After the termination of parental rights hearing, the requirements of Section 63‑7‑2580 must be met. Permanency planning hearings must be held annually, starting with the date of the termination of parental rights hearing. No further permanency planning hearings may be required after filing a decree of adoption of the child.

(4) If the court places custody or guardianship with the parent, extended family member, or suitable nonrelative and a period of services and supervision is authorized, services and supervision automatically terminate on the date specified in the court order. Before the termination date, the department or the guardian ad litem may file a petition with the court for a review hearing on the status of the placement. Filing of the petition stays termination of the case until further order from the court. If the court finds clear and convincing evidence that the child will be threatened with harm if services and supervision do not continue, the court may extend the period of services and supervision for a specified time. The court’s order must specify the services and supervision necessary to reduce or eliminate the risk of harm to the child.

(5) If the child is retained in foster care pursuant to a plan other than one described in items (1) through (4), future permanency planning hearings must be held at least annually.

(J) ~~A supplemental report must be attached to a motion filed pursuant to subsection (A). The supplemental report and notice of the hearing must be served upon all named parties at least ten days before the hearing.~~

~~(K)~~ A named party, the child’s guardian ad litem, or the local foster care review board may file a motion for review of the case at any time. Any other party in interest may move to intervene in the case pursuant to the rules of civil procedure and if the motion is granted, may move for review. Parties in interest include, but are not limited to, the individual or agency with legal custody or placement of the child and the foster parent. The notice of motion and motion for review must be served on the named parties at least ten days before the hearing date. The motion ~~shall~~ must state the reason for review of the case and the relief requested.

~~(L~~K) The pendency of an appeal concerning a child in foster care does not deprive the court of jurisdiction to hear a case pursuant to this section. The court shall retain jurisdiction to review the status of the child and may act on matters not affected by the appeal.”

SECTION 5. That portion of Section 63‑7‑2570 of the 1976 Code, as added by Act 361 of 2008, preceding item (2) is amended to read:

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

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

SECTION 6. Section 63-7-2570(6) is amended to read:

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

SECTION 7. Section 63‑7‑2570(9) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

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

SECTION 8. Section 63‑9‑60(A)(2) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(2) Before a child is placed within or outside the boundaries of this State for adoption with nonresidents of this State, compliance with Article 11 (Interstate Compact on the Placement of Children) is required, and a judicial determination must be made in this State that one of the circumstances in items (a) through (f) of ~~this section~~ subsection (A)(1) applies, whether or not the adoption proceedings are instituted in ~~South Carolina~~ this State. Additionally, in order to determine if any of the circumstances in items (a) through (f) of ~~this section~~ subsection (A)(1) apply so as to permit placement with a nonresident for the purpose of adoption or adoption by a nonresident, a petition may be brought for the determination before the birth of the child or before placement of the child with the prospective adoptive parents. In ruling on this question the court must include in its order specific findings of fact as to the circumstances allowing the placement of a child with a nonresident or the adoption of a child by a nonresident. The court also must analyze the facts against the objective criteria established in Sections 16‑3‑1060 and 63‑9‑310(F) and make specific findings in accordance with the pertinent law and evidence presented. The order resulting from this action does not prohibit or waive the right to refuse to consent to a release of rights or relinquish rights at later time ~~nor~~ or to withdraw a consent or relinquish at a later time as provided in this article. The order must be merged with and made a part of any subsequent adoption proceeding, which must be initiated and finalized in ~~South Carolina~~ this State.”

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

“Section 63‑9‑70. (A) No person or entity other than the Department of Social Services, a child placing agency licensed in this State, or an attorney licensed in this State may advertise that the person or entity will place or accept a child for adoption.

(B) Notwithstanding the provisions of subsection (A), a person is not prohibited from advertising that the person desires to adopt if the person has a current preplacement home investigation finding that the person is suitable to be an adoptive parent.

(C)(1) A violation of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(2) The family court shall enjoin a person or entity from violating a provision of this section.

(D) For purposes of this section, ‘advertise’ means to communicate by newspaper, radio, television, hand bills, placards or other print, broadcast or electronic medium that originates within this state.”

SECTION 10. Section 63-9-110 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑9‑1110. Any person may adopt his spouse’s child, and any person may adopt a child to whom he is related by blood or marriage. In the adoption of these children:

(1) no investigation or report required under the provisions of Section 63‑9‑520 is required unless otherwise directed by the court;

(2) no accounting by the petitioner of all disbursements required under the provisions of Section 63‑9‑740 is required unless the accounting is ordered by the court;

(3) upon good cause shown, the court may waive the requirement, pursuant to Section 63‑9‑750, that the final hearing must not be held before ninety days after the filing of the adoption petition; and

(4) upon good cause shown, the court may waive the requirement, pursuant to Section 63‑9‑320(A)(2), of the appointment of independent counsel for an indigent parent; and

(5) upon good cause shown, the court may waive the requirement, pursuant to Section 63-9-60(A)(2), that the adoption proceeding must be finalized in this State.”

SECTION 11. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

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

Renumber sections to conform.

Amend title to conform.

PAUL G. CAMPBELL, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

Department of Social Services

The agency is in the process of reviewing the bill for its potential impact on its programs and expenditures. This impact statement will be revised to include this information once the review and analysis is completed.

The Judicial Department

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

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 63‑7‑1640, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF SOCIAL SERVICES PROVIDING REASONABLE EFFORTS TO ACHIEVE FAMILY PRESERVATION AND REUNIFICATION, SO AS TO PROVIDE THAT THE NAMED PARTY MAY MOVE TO HAVE THE COURT DETERMINE IF THE DEPARTMENT SHALL CONTINUE WITH THESE EFFORTS, TO ADD ALCOHOL AND DRUG ADDITION, MENTAL ILLNESS, AND EXTREME PHYSICAL INCAPACITY TO THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT IS NOT REQUIRED TO TRY TO PRESERVE AND REUNIFY A FAMILY, TO REQUIRE THE COURT TO MAKE SPECIFIC FINDINGS WHEN RELEASING THE DEPARTMENT FROM TRYING TO PRESERVE AND REUNIFY A FAMILY, AND TO REQUIRE THE DEPARTMENT TO PETITION FOR TERMINATION OF PARENTAL RIGHTS WITHIN SIXTY DAYS WHEN FAMILY PRESERVATION AND REUNIFICATION IS NO LONGER REQUIRED; TO AMEND SECTION 63‑7‑1660, RELATING TO PROCEDURES FOR REMOVING A CHILD FROM THE CUSTODY OF HIS PARENTS BY FILING A PETITION IN FAMILY COURT AND GROUNDS FOR REMOVAL, SO AS TO REQUIRE THE DEPARTMENT TO ALSO SEEK TERMINATION OF PARENTAL RIGHTS IF CIRCUMSTANCES EXIST THAT THE DEPARTMENT IS NOT REQUIRED TO TRY TO PRESERVE AND REUNIFY THE FAMILY; TO AMEND SECTION 63‑7‑1680, RELATING TO THE CONTENTS OF A PLACEMENT PLAN WHEN A CHILD IS REMOVED FROM THE CUSTODY OF HIS PARENTS, SO AS TO REVISE AND FURTHER SPECIFY THE CONTENTS OF THE PLACEMENT PLAN; TO AMEND SECTION 63‑7‑1700, RELATING TO THE FAMILY COURT REVIEWING A CHILD’S PERMANENT PLACEMENT PLAN, SO AS TO FURTHER PROVIDE THE CONTENTS OF A SUPPLEMENTAL REPORT TO BE PROVIDED TO THE COURT WHEN CONDUCTING SUCH A REVIEW, TO FURTHER SPECIFY CONDITIONS FOR REVIEW, TO FURTHER SPECIFY CONDITIONS FOR RETURNING THE CHILD TO THE CUSTODY OF HIS PARENTS, TO FURTHER SPECIFY CONDITIONS UNDER WHICH THE PLACEMENT PLAN MAY BE EXTENDED, AND TO DELETE DUPLICATIVE TEXT; TO AMEND SECTION 63‑7‑2570, RELATING TO GROUNDS FOR TERMINATING PARENTAL RIGHTS, SO AS TO PROVIDE THAT IN SOME INSTANCES A PARENT’S CONDUCT INVOLVING A CHILD, OTHER THAN A CHILD OF THE PARENT, MAY CONSTITUTE GROUNDS FOR TERMINATION OF PARENTAL RIGHTS; TO AMEND SECTION 63‑9‑60, RELATING TO PERSONS WHO MAY ADOPT A CHILD IN THIS STATE, SO AS TO PROVIDE THAT AN ADOPTION BY PERSONS WHO ARE NONRESIDENTS MUST BE FINALIZED IN THIS STATE; AND BY ADDING SECTION 63‑9‑70 SO AS TO PROHIBIT CERTAIN PERSONS OR ENTITIES FROM ADVERTISING THAT THE PERSON OR ENTITY WILL PLACE OR ACCEPT A CHILD FOR ADOPTION, TO PROVIDE AN EXCEPTION, AND TO PROVIDE THAT THE FAMILY COURT SHALL ENJOIN VIOLATIONS OF THIS SECTION.

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

SECTION 1. Section 63‑7‑1640 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1640. (A) When this chapter requires the department to make reasonable efforts to preserve or reunify a family and requires the family court to determine whether these reasonable efforts have been made, the child’s health and safety must be the paramount concern.

(B) The family court may rule on whether reasonable efforts to preserve or reunify a family should be required in hearings regarding removal of custody, review of amendments to a placement plan, review of the status of a child in foster care, or permanency planning or in a separate proceeding for this purpose. The court may consider this issue on the motion of a named party, the foster care review board, or the child’s guardian ad litem.

(C) The family court may authorize the department to terminate or forego reasonable efforts to preserve or reunify a family when the records of a court of competent jurisdiction show or when the family court determines that one or more of the following conditions exist:

(1) the parent has subjected the child or another child to one or more of the following aggravated circumstances:

(a) severe or repeated abuse;

(b) severe or repeated neglect;

(c) sexual abuse;

(d) acts ~~that~~ the judge ~~may find~~ finds constitute torture; or

(e) abandonment;

(2) the parent has been convicted of or pled guilty or nolo contendere to murder of another child ~~of the parent~~, or an equivalent offense, in this jurisdiction or another;

(3) the parent has been convicted of or pled guilty or nolo contendere to voluntary manslaughter of another child ~~of the parent~~, or an equivalent offense, in this jurisdiction or another;

(4) the parent has been convicted of or pled guilty or nolo contendere to aiding, abetting, attempting, soliciting, or conspiring to commit murder or voluntary manslaughter ~~pursuant to item (1), (2), or (3),~~ of another child, or an equivalent offense, in this jurisdiction or another;

(5) physical abuse of a child ~~of the parent~~ resulted in the death or admission to the hospital for in‑patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting:

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

(b) criminal domestic violence, as defined in Section 16‑25‑20;

(c) criminal domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65; or

(d) the common law offense of assault and battery of a high and aggravated nature, or an equivalent offense in another jurisdiction;

(6) the parental rights of the parent to ~~a sibling of the child~~ another child of the parent have been terminated involuntarily;

(7) the parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child;

(8) other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the permanent plan for the child.

(D) The department may proceed with efforts to place a child for adoption or with a legal guardian concurrently with making efforts to prevent removal or to make it possible for the child to return safely to the home.

(E) If the family court’s decision that reasonable efforts to preserve or reunify a family are not required results from a hearing other than a permanency planning hearing, the court’s order shall require that a permanency planning hearing be held within thirty days of the date of the order.

(F) In determining whether to authorize the department to terminate or forego reasonable efforts to preserve or reunify a family, the court must consider whether initiation or continuation of reasonable efforts to preserve or reunify the family is in the best interests of the child. If the court does not authorize the department to terminate or forego reasonable efforts where one or more of the conditions set forth in (C)(1) through (7) are shown to exist, the court must make specific written findings in support of its conclusion that continuation of reasonable efforts is in the best interest of the child. The court must not consider the availability or lack of an adoptive resource as a reason to deny the request to terminate or forego reasonable efforts.

(G) In any case in which the court authorizes the department to terminate or forego reasonable efforts to preserve or reunify a family, the department shall file a petition for termination of parental rights within sixty days unless there are compelling reasons why termination of parental rights would be contrary to the best interests of the child.”

SECTION 2. Section 63‑7‑1660(B)(2) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(2) The petition for removal may include a petition for termination of parental rights. The petition for removal must include a petition for termination of parental rights if court records or other evidence indicate the existence of one or more of the conditions set forth in Section 63‑7‑1640(C)(1) through (7), unless there are compelling reasons for believing that termination of parental rights would be contrary to the best interests of the child.”

SECTION 3. Section 63‑7‑1680 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1680. (A) If the court orders that a child be removed from the custody of the parent or guardian, the court must approve a placement plan. A plan must be presented to the court for its approval at the removal hearing or within ten days after the removal hearing. If the plan is presented subsequent to the removal hearing, the court shall hold a hearing on the plan if requested by a party. The plan must be a written document prepared by the department. To the extent possible, the plan must be prepared with the participation of the parents or guardian of the child, the child, and any other agency or individual that will be required to provide services in order to implement the plan.

(B) ~~The placement plan shall include, but is not limited to:~~

~~(1) the specific reasons for removal of the child from the custody of the parent or guardian and the changes that must be made before the child may be returned, including:~~

~~(a) the nature of the harm or threatened harm that necessitated removal, a description of the problems or conditions in the home that caused the harm or threatened harm, and the reason why the child could not be protected without removal;~~

~~(b) the nature of the changes in the home and family situation that must be made in order to correct the problems and conditions that necessitated removal, time frames for accomplishing these objectives, and means for measuring whether the objectives have been accomplished. The objectives stated in this part of the plan must relate to problems and circumstances serious enough to justify removal. The plan must be oriented to correcting these problems and circumstances in the shortest possible time in order to expedite the child’s return to the home;~~

~~(c) specific actions to be taken by the parents or guardian of the child to accomplish the objectives identified in subitem (b) and time frames for taking these actions;~~

~~(2) other conditions in the home that warrant state intervention, but would not alone have been sufficient to warrant removal, and the changes that must be made in order to terminate intervention, including:~~

~~(a) the nature of the harm or threatened harm that justifies state intervention and a description of the problems or conditions of the home that caused the harm or threatened harm;~~

~~(b) the nature of the changes in the home and family situation that must be made in order to correct the problems and conditions that caused the harm or threatened harm, time frames for accomplishing these objectives, and means for measuring whether the objectives have been accomplished;~~

~~(c) specific actions to be taken by the parents or guardian of the child to accomplish the objectives identified in subitem (b) and time frames for taking these actions;~~

~~(3) the social and other services to be provided or made available to the parents, guardian, or other relevant adult to assist the parents or guardian in accomplishing the objectives, including a specific finding as to the minimum number and frequency of contacts a caseworker with the department must have with the child while in foster care. For a child placed in foster care within this State, the caseworker must meet with the child, at a minimum, once a month, but based upon the particular needs and circumstances of the individual child, more frequent contacts may be ordered by the court;~~

~~(4) the financial responsibilities and obligations, if any, of the parents or guardian for the support of the child during the placement;~~

~~(5) the visitation rights and obligations of the parents, guardian, siblings, or other relatives of the child during the placement. The plan shall provide for as much contact as is reasonably possible and consistent with the best interests of the child between the child and the child’s parents, guardian, siblings, and other appropriate relatives with whom the child has a close relationship including visitation and participation of the parents or guardian in the care of the child while the child is in placement;~~

~~(6) the nature and location of the placement of the child unless it is determined that disclosure of the location of the placement to the parents, guardian, or any other person would be contrary to the best interest of the child. In making its determination of whether disclosure of the location of the placement is in the best interest of the child, the department must consider evidence of sexual abuse, physical abuse, or substance abuse by an adult living in the child’s home or evidence of criminal domestic violence in the child’s home. When disclosure of the location of the placement is determined to be contrary to the best interest of the child, disclosure must not be made to the abusing party or to any member of the abusing party’s household. The placement must be as close to the child’s home as is reasonably possible, unless placement at a greater distance is necessary to promote the child’s well‑being. In the absence of good cause to the contrary, preference must be given to placement with a relative or other person who is known to the child and has a constructive and caring relationship with the child;~~

~~(7) the social and other supportive services to be provided to the child and the foster parents including counseling or other services to assist the child in dealing with the effects of separation from the child’s home and family;~~

~~(8) if the parents or guardian were not involved in the development of the plan, the nature of the agency’s efforts to secure parental participation;~~

~~(9) notice to the parents or guardians that failure to substantially accomplish the objectives stated in the plan within the time frames provided may result in termination of parental rights, subject to notice and a hearing as provided in Article 7.~~

The first section of the plan shall set forth the changes that must occur in the home and family situation before the child can be returned. These changes must be reasonably related to the reasons justifying removal of the child from the custody of the parents or guardian. This section of the plan must contain a notice to the parents or guardian that failure to make the indicated changes within six months may result in termination of parental rights.

(C) ~~The placement plan clearly shall state the conditions necessary to bring about return of the child and the reasonable efforts that will be made by the department to reunite the child with the child’s family. ‘Reasonable efforts’ include location of the placement and visitation arrangements as well as services to the parents or guardian and the child~~ The second section of the plan shall set forth:

(1) specific actions to be taken by the parents or guardian of the child; and

(2) social or other services to be provided or made available to the parent or guardian of the child.

This section of the plan must include time frames for commencement or completion of specific actions or services. This section must contain a notice to the parents or guardian that completion of the indicated actions will not result in return of the child unless the changes set forth in section one of the plan have occurred.

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

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

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

This section of the plan must include a notice to the parents or guardian that failure to support or visit the child as provided in the plan may result in termination of parental rights.

(E) The fourth section of the plan must address matters relating to the placement of the child including, but not limited to, the following:

(1) the nature and location of the placement of the child, unless there are compelling reasons for concluding that disclosure of the location of the placement to the parents, guardian, or other person would be contrary to the best interests of the child. The placement must be as close to the child’s home as is reasonably possible, unless there are compelling reasons for concluding that placement at a greater distance is necessary to promote the child’s well‑being. In the absence of good cause to the contrary, preference must be given to placement with a relative or other person who is known to the child and who has a constructive and caring relationship with the child;

(2) visitation or other contact with siblings, other relatives, and other persons important to the child. The plan shall provide for as much contact between the child and these persons as is reasonably possible and consistent with the best interests of the child;

(3) social and other supportive services to be provided to the child and the foster parents, including counseling or other services to assist the child in dealing with the effects of separation from the child’s home and family; and

(4) the minimum number and frequency of contacts that a caseworker with the department will have with the child, which must be based on the particular needs and circumstances of the individual child but which must not be less than once a month for a child placed in this State.

(F) The court shall approve the plan only if it finds that:

(1) the plan is consistent with the court’s order placing the child in the custody of the department;

(2) the plan is consistent with the requirements for the content of a placement plan set forth in ~~subsection~~ subsections (B) through (E);

(3) if the parents or guardian of the child did not participate in the development of the plan, that the department made reasonable efforts to secure their participation; and

(4) the plan is meaningful and designed to address facts and circumstances upon which the court based the order of removal.

If the court determines that any of these criteria are not satisfied, the court shall require that necessary amendments to the plan be submitted to the court within a specified time but no later than seven days. A hearing on the amended plan must be held if requested by a party.

~~(E)~~(G) The court shall include in its order and shall advise defendants on the record that failure to ~~substantially accomplish the objectives stated in the plan within the time frames provided~~ remedy the conditions that caused the removal within six months, may result in termination of parental rights, subject to notice and a hearing as provided in Article 7. Before the court orders return of the child, the court must find that the changes in the home and family situation specified in section one of the plan have occurred and that the child can be safely returned to the home. Completion of the tasks specified in section two of the plan is not in itself sufficient basis for return of the child.

~~(F)~~(H) The department immediately shall give a copy of the plan to the parents or guardian of the child, and any other parties identified by the court, including the child if the court considers it appropriate. If a copy of the plan is not given to the child, the department shall provide the child with age‑appropriate information concerning the substance of the plan unless the court finds that disclosure of any part of the plan to the child would be inconsistent with the child’s best interests. A copy of any part of the plan that directly pertains to the foster family or the foster child must be provided to the foster parents.

~~(G)~~(I) The plan may be amended at any time if all parties agree ~~regarding~~ to the revisions, and the revisions are approved by the court. The amended plan must be submitted to the court with a written explanation for the proposed change. The plan also may be amended by the court upon motion of a party after a hearing based on evidence demonstrating the need for the amendment. A copy of the amended plan immediately must be given to the parties specified in subsection ~~(F). Any additions to the elements set forth in subsections (B)(1)(b) and (c) must relate to problems or conditions that are serious enough to justify removal of the child from the home based on the criteria in Section 63‑7‑1660(E)~~ (H).

~~(H)~~(J) Any objections to the sufficiency of a plan or the process by which a plan was developed must be made at the hearing on the plan. Failure to request a hearing or to enter an objection at the hearing constitutes a waiver of the objection. The sufficiency of the plan or of the process for developing the plan may not be raised as an issue in a proceeding for termination of parental rights under Article 7.

~~(I)~~(K) Upon petition of a party in interest, the court may order the state or county director or other authorized representative of the department to show cause why the agency should not be required to provide services in accordance with the plan. The provisions of the plan must be incorporated as part of a court order issued pursuant to this section. A person who fails to comply with an order may be held in contempt and subject to appropriate sanctions imposed by the court.”

SECTION 4. Section 63‑7‑1700 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1700. (A) The family court shall review the status of a child placed in foster care upon motion filed by the department to determine a permanent plan for the child. The permanency planning hearing must be held no later than one year after the date the child was first placed in foster care. At the initial permanency planning hearing, the court shall review the status of the child and the progress being made toward the child’s return home or toward any other permanent plan approved at the removal hearing. The court’s order shall make specific findings in accordance with this section. An action for permanency planning must be brought for a child who enters the custody of the department by any mechanism, including Subarticle 3 or Section 63‑7‑1660 or 63‑9‑330. If the child enters the custody of the department pursuant to Section 63‑9‑330 and no action is pending in the family court concerning the child, the department may initiate the permanency planning hearing with a summons and petition for review. All parties must be served with the motion or the summons and petition at least ten days before the hearing, and no responsive pleading is required.

(B) The department shall attach a supplemental report to the motion or ~~other pleadings~~ summons and petition which must contain at least:

(1) that information necessary to support findings required in ~~subsection~~ subsections (C) through (H), as applicable;

(2) the recommended permanent plan and suggested timetable for attaining permanence; ~~and~~

(3) a statement of whether or not the court has authorized the department to forego or terminate reasonable efforts pursuant to Section 63‑7‑1640; and

(4) any reports of the local foster care review board which pertain to the child.

The department may use the same form for the supplemental report, reports from the department to the local foster care review board, and reports compiled for internal department reviews.

(C) At the permanency planning hearing, the court shall review the department’s plan for achieving permanence for the child. If the department’s plan is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights, the department must show compelling reasons for the selection of another permanent plan. If the court approves a plan that is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights, the court must find compelling reasons for approval of the plan and that the plan is in the child’s best interests.

(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child’s parent would not cause an unreasonable risk of harm to the child’s life, physical health, safety, or mental well‑being, the court shall order the child returned to the child’s parent. The court may order a specified period of supervision and services not to exceed twelve months. ~~When determining whether the child should be returned, the court shall consider all evidence and the supplemental report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 63‑7‑1680~~.

(E) Unless subsection (C), (F), or (G) applies, if the court determines at the permanency planning hearing that the child should not be returned to the child’s parent at that time, the court’s order shall require the department to file a petition to terminate parental rights to the child not later than sixty days after receipt of the order. If a petition to terminate parental rights is to be filed, the department shall exercise and document every reasonable effort to promote and expedite the adoptive placement and adoption of the child, including a thorough adoption assessment and child‑specific recruitment. Adoptive placements must be diligently sought for the child and failure to do so solely because a child is classified as ‘special needs’ is expressly prohibited. An adoption may not be delayed or denied solely ~~on these~~ because a child is classified as ‘special needs’. For purposes of this subsection:

(1) ‘thorough adoption assessment’ means conducting and documenting face‑to‑face interviews with the child, foster care providers, and other significant parties; and

(2) ‘child specific recruitment’ means recruiting an adoptive placement targeted to meet the individual needs of the specific child including, but not be limited to, use of the media, use of photo listings, and any other in‑state or out‑of‑state resources which may be utilized to meet the specific needs of the child, unless there are extenuating circumstances that indicate that these efforts are not in the best interest of the child.

(F) If the court determines that the criteria in subsection (D) are not met but that the child may be returned to the parent within a specified reasonable time not to exceed eighteen months after the child was placed in foster care, the court may order an extension of the plan approved pursuant to Section 63‑7‑1680 or may order compliance with a modified plan~~. Before continuing foster care for this purpose, the court must find that, at the time of the hearing, initiation of termination of parental rights is not in the best interests of the child and that the best interests of the child will be served by the extended or modified plan~~, but in no case may the extension for reunification continue beyond eighteen months after the child was placed in foster care. An extension may be granted pursuant to this section only if the court finds:

(1) that the parent has demonstrated due diligence and a commitment to correcting the conditions warranting the removal so that the child could return home in a timely fashion;

(2) that there are specific reasons to believe that the conditions warranting the removal will be remedied by the end of the extension;

(3) that the return of the child to the child’s parent would not cause an unreasonable risk of harm to the child’s life, physical health, safety, or mental well‑being;

(4) that, at the time of the hearing, initiation of termination of parental rights is not in the best interest of the child; and

(5) that the best interests of the child will be served by the extended or modified plan.

(G) If after assessing the viability of adoption, the department demonstrates that termination of parental rights is not in the child’s best interests, ~~and if the court finds that the best interests of the child would be served,~~ the court may award custody or legal guardianship, or both, to a suitable, fit, and willing relative or nonrelative if the court finds this to be in the best interest of the child; however, a home study on the individual whom the department is recommending for custody of the child must be submitted to the court for consideration before custody ~~of~~ or legal guardianship, or both, are awarded. The court may order a specified period of supervision and services not to exceed twelve months, and the court may authorize a period of visitation or trial placement prior to receiving a home study.

(H) If at the initial permanency planning hearing the court does not order return of the child pursuant to subsection (D), in addition to those findings supporting the selection of a different plan, the court shall specify in its order:

(1) what services have been provided to or offered to the parents to facilitate reunification;

(2) the compliance or lack of compliance by all parties to the plan approved pursuant to Section 63‑7‑1680;

(3) the extent to which the parents have visited or supported the child and any reasons why visitation or support has not occurred or has been infrequent;

(4) whether previous services should continue and whether additional services are needed to facilitate reunification, identifying the services, and specifying the expected date for completion, which must be no longer than eighteen months from the date the child was placed in foster care;

(5) whether return of the child can be expected and identification of the changes the parent must make in circumstances, conditions, or behavior to remedy the causes of the child’s placement or retention in foster care;

(6) whether the child’s foster care is to continue for a specified time and, if so, how long;

(7) if the child has attained the age of sixteen, the services needed to assist the child to make the transition to independent living;

(8) whether the child’s current placement is safe and appropriate;

(9) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child’s placement or retention in foster care, unless the court has previously authorized the department to terminate or forego reasonable efforts pursuant to Section 63‑7‑1640; and

(10) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts.

(I) If after the permanency planning hearing, the child is retained in foster care, future permanency planning hearings must be held as follows:

(1) If the child is retained in foster care and the agency is required to initiate termination of parental rights proceedings, the termination of parental rights hearing may serve as the next permanency planning hearing, but only if it is held no later than one year from the date of the previous permanency planning hearing.

(2) If the court ordered extended foster care for the purpose of reunification with the parent, the court must select a permanent plan for the child other than another extension for reunification purposes at the next permanency planning hearing. The hearing must be held on or before the date specified in the plan for expected completion of the plan; in no case may the hearing be held any later than six months from the date of the last court order.

(3) After the termination of parental rights hearing, the requirements of Section 63‑7‑2580 must be met. Permanency planning hearings must be held annually, starting with the date of the termination of parental rights hearing. No further permanency planning hearings may be required after filing a decree of adoption of the child.

(4) If the court places custody or guardianship with the parent, extended family member, or suitable nonrelative and a period of services and supervision is authorized, services and supervision automatically terminate on the date specified in the court order. Before the termination date, the department or the guardian ad litem may file a petition with the court for a review hearing on the status of the placement. Filing of the petition stays termination of the case until further order from the court. If the court finds clear and convincing evidence that the child will be threatened with harm if services and supervision do not continue, the court may extend the period of services and supervision for a specified time. The court’s order must specify the services and supervision necessary to reduce or eliminate the risk of harm to the child.

(5) If the child is retained in foster care pursuant to a plan other than one described in items (1) through (4), future permanency planning hearings must be held at least annually.

(J) ~~A supplemental report must be attached to a motion filed pursuant to subsection (A). The supplemental report and notice of the hearing must be served upon all named parties at least ten days before the hearing.~~

~~(K)~~ A named party, the child’s guardian ad litem, or the local foster care review board may file a motion for review of the case at any time. Any other party in interest may move to intervene in the case pursuant to the rules of civil procedure and if the motion is granted, may move for review. Parties in interest include, but are not limited to, the individual or agency with legal custody or placement of the child and the foster parent. The notice of motion and motion for review must be served on the named parties at least ten days before the hearing date. The motion ~~shall~~ must state the reason for review of the case and the relief requested.

~~(L)~~(K) The pendency of an appeal concerning a child in foster care does not deprive the court of jurisdiction to hear a case pursuant to this section. The court shall retain jurisdiction to review the status of the child and may act on matters not affected by the appeal.”

SECTION 5. That portion of Section 63‑7‑2570 of the 1976 Code, as added by Act 361 of 2008, preceding item (2) is amended to read:

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

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

SECTION 6. Section 63‑7‑2570(9) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

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

SECTION 7. Section 63‑9‑60(A)(2) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(2) Before a child is placed within or outside the boundaries of this State for adoption with nonresidents of this State, compliance with Article 11 (Interstate Compact on the Placement of Children) is required, and a judicial determination must be made in this State that one of the circumstances in items (a) through (f) of ~~this section~~ subsection (A)(1) applies, whether or not the adoption proceedings are instituted in ~~South Carolina~~ this State. Additionally, in order to determine if any of the circumstances in items (a) through (f) of ~~this section~~ subsection (A)(1) apply so as to permit placement with a nonresident for the purpose of adoption or adoption by a nonresident, a petition may be brought for the determination before the birth of the child or before placement of the child with the prospective adoptive parents. In ruling on this question the court must include in its order specific findings of fact as to the circumstances allowing the placement of a child with a nonresident or the adoption of a child by a nonresident. The court also must analyze the facts against the objective criteria established in Sections 16‑3‑1060 and 63‑9‑310(F) and make specific findings in accordance with the pertinent law and evidence presented. The order resulting from this action does not prohibit or waive the right to refuse to consent to a release of rights or relinquish rights at later time ~~nor~~ or to withdraw a consent or relinquish at a later time as provided in this article. The order must be merged with and made a part of any subsequent adoption proceeding, which must be initiated and finalized in ~~South Carolina~~ this State.”

SECTION 8. Subarticle 1, Article 1, Chapter 9, of Title 63 of the 1976 Code is amended by adding:

“Section 63‑9‑70. (A) No person or entity other than the Department of Social Services, a child placing agency licensed in this State, or an attorney licensed in this State may advertise in any periodical, newspaper, telephone directory, or by radio, television, billboard, or pamphlet, that a person or entity will place or accept a child for adoption.

(B) Notwithstanding the provisions of subsection (A), a person is not prohibited from advertising that the person desires to adopt if the person has a current preplacement home investigation finding that the person is suitable to be an adoptive parent.

(C) The family court shall enjoin a person or entity from violating a provision of this section.”

SECTION 9. This act takes effect upon approval by the Governor.

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