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Indicates New Matter

COMMITTEE REPORT

May 20, 2010

**S. 348**

Introduced by Senators Fair, Sheheen, S. Martin, Lourie, Shoopman, Knotts and Rose

S. Printed 5/20/10--H.

Read the first time April 13, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 348) to amend Section 16‑3‑95, as amended, Code of Laws of South Carolina, 1976, relating to infliction of great bodily injury upon a child, so as to provide, 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 SECTIONS 1 and 2 of the bill in their entirety.

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 16‑3‑95, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INFLICTION OF GREAT BODILY INJURY UPON A CHILD, SO AS TO PROVIDE A MINIMUM TERM OF IMPRISONMENT OF TWO YEARS FOR A PERSON WHO IS CONVICTED OF THIS OFFENSE AND WHO IS REGISTERED WITH OR LICENSED BY THE DEPARTMENT OF SOCIAL SERVICES PURSUANT TO CHILDCARE FACILITIES LICENSURE REQUIREMENTS; TO PROVIDE THAT NO PORTION OF THE SENTENCE MAY BE SUSPENDED; AND BY ADDING SECTION 63‑13‑825 SO AS TO REQUIRE FAMILY CHILDCARE OPERATORS AND CAREGIVERS ANNUALLY TO COMPLETE A MINIMUM OF TWO HOURS OF TRAINING APPROVED BY THE DEPARTMENT OF SOCIAL SERVICES.

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

SECTION 1. Section 16-3-95 of the 1976 Code is amended to read:

“Section 16-3-95. (A)(1) It is unlawful to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

(2) A person who is registered with or licensed by the Department of Social Services pursuant to Chapter 13, Title 63 or who is employed by or contracts with a person registered with or licensed by the department pursuant to Chapter 13, Title 63, who violates subsection (A)(1) is guilty of a felony and, upon conviction, must be imprisoned not more than twenty-five years.

(B) It is unlawful for a child’s parent or guardian, person with whom the child’s parent or guardian is cohabitating, or any other person responsible for a child’s welfare as defined in Section 63‑7‑20 knowingly to allow another person to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) For purposes of this section, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(D) This section may not be construed to prohibit corporal punishment or physical discipline which is administered by a parent or person in loco parentis in a manner which does not cause great bodily injury upon a child.

(E) This section does not apply to injuries sustained in ~~traffic~~ accidents unless the accident was caused by the ~~driver’s~~ actor’s reckless disregard for the safety of others.”

SECTION 2. Article 7, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑825. (A) An operator of a family childcare home and any person employed by or who contracts with an operator of a family childcare home, annually shall complete and provide documentation to the Department of Social Services of a minimum of two hours of training approved by the department.

(B) The department shall indicate on its website those family childcare homes that are and those that are not in compliance with this section and may include, but are not limited to, the amount of training the operator and other persons employed by or under contract with a family childcare home have reported to the department.”

SECTION 3. Section 16-3-740 (B) is amended to read:

“(B) Upon the request of a victim who has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a victim who has been exposed to body fluids during the commission of a criminal offense, the solicitor must, ~~at any time~~ within forty-eight hours, excluding weekends and legal holidays as defined in Chapter 5 of Title 53, after the offender is charged, or ~~at any time~~ within forty-eight hours, excluding weekends and legal holidays as defined in Chapter 5 of Title 53, after a petition has been filed against an offender in family court, petition the court to have the offender tested for Hepatitis B and HIV. An offender must not be tested under this section for Hepatitis B and HIV without a court order. To obtain a court order, the solicitor must demonstrate the following:

(1) the victim or the victim’s legal guardian requested the tests;

(2) here is probable cause that the offender committed the offense;

(3) there is probable cause that during the commission of the offense there was a risk that body fluids were transmitted from one person to another; and

(4) the offender has received notice of the petition and notice of his right to have counsel represent him at a hearing.

The results of the tests must be kept confidential and disclosed only to the solicitor who obtained the court order. The solicitor shall then notify only those persons designated in subsection (C).”

SECTION 4. This act takes effect upon approval by the Governor.

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