~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 17, 2010

**H. 3779**

Introduced by Reps. Hearn, Weeks, Bannister and Erickson

S. Printed 2/17/10--H.

Read the first time March 26, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3779) to amend Section 63‑7‑1620, Code of Laws of South Carolina, 1976, relating to the legal representation of children and the appointment of guardians ad litem, 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 deleting Section 63-7-1620(1) and inserting:

/(1) Children must be appointed ~~legal counsel and~~ a guardian ad litem by the family court. ~~In the event the individual appointed as the guardian ad litem is an attorney guardian ad litem, the appointed individual shall serve as the guardian ad litem and legal counsel. The court must not, absent extraordinary circumstances, appoint additional legal counsel to represent an attorney guardian ad litem. The appointed attorney guardian ad litem must petition the family court for the appointment of legal counsel and set forth the extraordinary circumstances necessitating the appointment.~~ /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 63‑7‑1620, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LEGAL REPRESENTATION OF CHILDREN AND THE APPOINTMENT OF GUARDIANS AD LITEM, SO AS TO CLARIFY WHEN AN ATTORNEY MAY BE APPOINTED TO REPRESENT A GUARDIAN AD LITEM IN A CHILD ABUSE OR NEGLECT PROCEEDING AND TO CLARIFY WHO THE COURT MAY APPOINT TO REPRESENT A CHILD IN SUCH A PROCEEDING.

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

SECTION 1. Section 63‑7‑1620 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1620. In all child abuse and neglect proceedings:

(1) Children must be appointed ~~legal counsel and~~ a guardian ad litem by the family court. ~~In the event the individual appointed as the guardian ad litem is an attorney guardian ad litem, the appointed individual shall serve as the guardian ad litem and legal counsel. The court must not, absent extraordinary circumstances, appoint additional legal counsel to represent an attorney guardian ad litem. The appointed attorney guardian ad litem must petition the family court for the appointment of legal counsel and set forth the extraordinary circumstances necessitating the appointment.~~ If the appointed guardian ad litem is a volunteer serving on behalf of the South Carolina Guardian ad Litem Program or Richland County CASA pursuant to Section 63‑11‑500, the court shall appoint an attorney to represent the guardian ad litem. If the appointed guardian ad litem is an attorney appointed pursuant to Rule 608 of the South Carolina Appellate Court Rules, the court may appoint an additional attorney to represent the guardian ad litem if the case is contested.

(2) The family court may appoint legal counsel for the child. Counsel for the child ~~in no case~~ may not be the same as counsel for:

(a) the parent, legal guardian, or other person subject to the proceeding; ~~or~~

(b) any governmental or social agency involved in the proceeding;

(c) the child’s guardian ad litem.

~~(2)~~(3) Parents, legal guardians, or other persons subject to any judicial proceeding are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court.

~~(3)~~(4) The interests of the State and the Department of Social Services must be represented by the legal representatives of the Department of Social Services in any judicial proceeding.”

SECTION 2. This act takes effect upon approval by the Governor.

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