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Indicates New Matter

COMMITTEE REPORT

February 23, 2012

**H. 4473**

Introduced by Reps. Limehouse and Brady

S. Printed 2/23/12--H. [SEC 2/24/12 1:34 PM]

Read the first time January 10, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4473) to amend the Code of Laws of South Carolina, 1976, by adding Section 63‑15‑45 so as to prohibit a court from granting legal custody to a parent, 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 words and inserting:

/SECTION 1. Article 1, Chapter 15, Title 63 of the 1976 Code is amended by adding:

“Section 63‑15‑45. In making a decision regarding custody of a minor child, in addition to other existing factors specified by law, the court must consider and may not grant custody of a minor child to a parent, guardian, or another person who was found guilty of criminal sexual conduct with a minor in the first degree.”

SECTION 2. Section 63‑7‑2350 (A) of the 1976 Code is amended to read:

“(A) No child may be placed in foster care with a person:

(1) with a substantiated history of child abuse or neglect; ~~or~~

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

(a) an ‘Offense Against the Person’ as provided for in Chapter 3, Title 16;

(b) an ‘Offense Against Morality or Decency’ as provided for in Chapter 15, Title 16;

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

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

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

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

(g) a felony drug related offense under the laws of this State; or

(3) who was found guilty of criminal sexual conduct with a minor in the first degree.”

SECTION 3. Subarticle 1, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

“Section 63-9-65. In making a decision regarding adoption of a minor child, in addition to other existing factors specified by law, the court must consider and may not grant an adoption petition of a person who was found guilty of criminal sexual conduct with a minor in the first degree.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑15‑45 SO AS TO PROHIBIT A COURT FROM GRANTING LEGAL CUSTODY TO A PARENT, GUARDIAN, OR ANOTHER PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER REGISTRY; AND TO AMEND SECTION 63‑7‑2350, RELATING TO RESTRICTIONS ON FOSTER CARE PLACEMENTS, SO AS TO RESTRICT THE PLACEMENT OF A CHILD IN FOSTER CARE WITH A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER REGISTRY.

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

SECTION 1. Article 1, Chapter 15, Title 63 of the 1976 Code is amended by adding:

“Section 63‑15‑45. In making a decision regarding custody of a minor child, in addition to other existing factors specified by law, the court must consider and may not grant custody of a minor child to a parent, guardian, or another person who is required to register as a sex offender pursuant to Article 7, Chapter 3, Title 23.”

SECTION 2. Section 63‑7‑2350 (A) of the 1976 Code is amended to read:

“(A) No child may be placed in foster care with a person:

(1) with a substantiated history of child abuse or neglect; ~~or~~

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

(a) an ‘Offense Against the Person’ as provided for in Chapter 3, Title 16;

(b) an ‘Offense Against Morality or Decency’ as provided for in Chapter 15, Title 16;

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

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

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

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

(g) a felony drug related offense under the laws of this State; or

(3) who is required to register as a sex offender pursuant to Article 7, Chapter 3, Title 23.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

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

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