**South Carolina General Assembly**

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**H. 3898**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. D.C. Moss

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Introduced in the House on April 9, 2013

Currently residing in the House Committee on **Judiciary**

Summary: Adoption

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/9/2013 House Introduced and read first time ([House Journal‑page 22](file:///h:\HJ%20Archive\2013\04-09-13.docx))

4/9/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 22](file:///h:\HJ%20Archive\2013\04-09-13.docx))

**VERSIONS OF THIS BILL**

[4/9/2013](file:///p:\pprever\2013-14\3898_20130409.docx)

**A** **BILL**

TO AMEND SECTION 63‑9‑60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PEOPLE WHO MAY ADOPT A CHILD, SO AS TO PROVIDE THAT ANY RESIDENT OF THE STATE MAY ADOPT A CHILD PURSUANT TO THE ARTICLE, EXCEPT AS PROHIBITED BY SECTION 63‑9‑65; BY ADDING SECTION 63‑9‑62 TO CONSOLIDATE EXISTING PROVISIONS OF SECTION 63‑9‑60 THAT ADDRESS CIRCUMSTANCES IN WHICH A NONRESIDENT MAY ADOPT A CHILD, THE REQUIREMENT THAT FAMILY COURTS INCLUDE FINDINGS IN ORDERS AS TO THE BASIS FOR THE EXEMPTION ALLOWING ADOPTION BY A NONRESIDENT, THE APPLICABILITY OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN TO ALL ADOPTIONS BY NONRESIDENTS, THE PROHIBITION OF THE DEPARTMENT OF SOCIAL SERVICES DELAYING OR DENYING PLACEMENTS WITH NONRESIDENTS FOR CHILDREN IN ITS CUSTODY; AND BY ADDING SECTION 63‑9‑65 TO PROHIBIT RESIDENTS AND NONRESIDENTS FROM PETITIONING TO ADOPT A CHILD IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES AFTER THE CHILD HAS BEEN PLACED IN A HOME FOR THE PURPOSE OF ADOPTION.

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

SECTION 1. Section 63‑9‑60 of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

“Section 63‑9‑60. ~~(A)(1)~~ ~~Any~~ A South Carolina resident may ~~petition the court to~~ adopt a child pursuant to this article, except as prohibited by Section 63‑9‑65. ~~Placement of children for adoption pursuant to this article is limited to South Carolina placement with residents with exceptions being made in the following circumstances only:~~

~~(a)~~ ~~the child is a special needs child, as defined by Section 63‑9‑30;~~

~~(b)~~ ~~there has been public notoriety concerning the child or child’s family, and the best interests of the child would be served by placement outside this State;~~

~~(c)~~ ~~the child is to be placed for adoption with a relative related biologically or by marriage;~~

~~(d)~~ ~~at least one of the adoptive parents is in the military service stationed in South Carolina;~~

~~(e)~~ ~~there are unusual or exceptional circumstances such that the best interests of the child would be served by placement with or adoption by nonresidents of this State; or~~

~~(f)~~ ~~the child has been in foster care for at least six months after having been legally freed for~~ ~~adoption and no South Carolina resident has been identified as a prospective adoptive home.~~

~~(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 subsection (A)(1) applies, whether or not the adoption proceedings are instituted in this State. Additionally, in order to determine if any of the circumstances in items (a) through (f) of 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 a later time 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 this State.~~

~~(B)~~ ~~This section does not apply to a child placed by the State Department of Social Services or any agency under contract with the department for purposes of placing that child for adoption. Neither the department nor its contractors may delay or deny the placement of a child for adoption by a nonresident if that nonresident has been approved for adoption of the child by another state authorized to approve such placements pursuant to the Interstate Compact on Placement of Children. The department shall provide an opportunity for a hearing, in accordance with the department’s fair hearing procedures, to a nonresident who believes that the department, in violation of this section, has delayed or denied placement of a child for adoption.~~”

SECTION 2. Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

“Section 63‑9‑62. (A) A nonresident of the State may not adopt a child pursuant to this article unless:

(1) the child is a special needs child, as defined by Section 63‑9‑30;

(2) there has been public notoriety concerning the child or child’s family, and the best interests of the child would be served by placement outside this State;

(3) the child is to be placed for adoption with a relative related biologically or by marriage;

(4) at least one of the adoptive parents is in the military service stationed in South Carolina;

(5) there are unusual or exceptional circumstances such that the best interests of the child would be served by placement with or adoption by nonresidents of this State; or

(6) the child is in the custody of the department and legally free for adoption, and the department has not identified a prospective adoptive placement.

(B)(1) Before a child is placed within or outside the boundaries of this State with a nonresident of this State for the purpose of adoption or for adoption,

(a) the sending agency, as that term is defined in Section 63‑9‑2200, shall comply with Article 11, Interstate Compact on the Placement of Children; and

(b) a court of this State shall make a determination that one or more circumstances in subsection (A) applies, whether or not the adoption proceedings are instituted in this State.

(2) In order to determine if one or more of the circumstances in subsection (A) applies so as to permit placement with a nonresident for the purpose of adoption or for adoption, a biological parent of the child or a prospective adoptive parent may file a petition seeking the determination before the birth of the child or before placement of the child with the prospective adoptive parents.

(3) In making the determinations required by this section, the court shall include in its order specific findings of fact as to the circumstances allowing the placement of a child with a nonresident for the purpose of adoption or for adoption. The court also shall 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.

(4) An order resulting from the determinations made pursuant to this section does not prohibit or waive the right to refuse to consent to a release of rights or relinquish rights at a later time 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 the record of and any orders from a subsequent adoption action. The adoption action must be initiated and finalized in this State.

(C)(1) When a child is in the custody of the department and is legally free for adoption, the department and its contractors must not delay or deny placement of the child for adoption by a nonresident if:

(a) the nonresident has been approved to adopt the child by another state authorized to approve such placements pursuant to the Interstate Compact on Placement of Children; and

(b) the department has not identified a South Carolina resident as a prospective adoptive placement.

(2) The department shall provide an opportunity for a hearing in accordance with the department’s fair hearing procedures to a nonresident who believes that the department, in violation of this section, has delayed or denied placement of a child for adoption.”

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

“Section 63‑9‑65. (A) No resident or nonresident of this State may petition a court to adopt a child in the custody of the State after the department, or an agency under contract with the department, has placed the child in a home for the purpose of adoption. Placement of a child in a home for the ‘purpose of adoption’ pursuant to this article means placement in a home selected by the department’s adoption placement committee as the adoptive placement.

(B)(1) This section does not prohibit the department from refusing to consent to a release of rights or to relinquish at a later time or withdraw a consent or relinquishment at a later time pursuant to this article and does not constitute a waiver of these rights.

(2) Except as otherwise provided by statute or regulation, this section does not prohibit the department from removing a child from a home with whom the department has placed the child for the purpose of adoption before a court of this State finalizes the adoption. The department shall provide an opportunity for a hearing in accordance with the department’s fair hearing procedures to a resident or nonresident who believes that the department, in violation of this section, has removed a child placed in his home for the purpose of adoption.”

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

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