**A** **BILL**

TO AMEND SECTION 63‑19‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS PERTAINING TO THE JUVENILE JUSTICE CODE, SO AS TO INCLUDE PRETRIAL DETAINEES WHO HAVE NOT ATTAINED THEIR EIGHTEENTH BIRTHDAY WITHIN THE DEFINITION OF “CHILD” OR “JUVENILE”; AND TO AMEND SECTION 63‑19‑820, RELATING TO DETENTION OF A CHILD, SO AS TO DELETE AN EXCEPTION THAT ALLOWS CERTAIN JUVENILES TO BE CONFINED IN AN ADULT JAIL.

Whereas, Section 63‑19‑20 defines a “child” or “juvenile,” in general, as a person less than seventeen years of age; and

Whereas, 18 U.S.C. Section 5031 defines a “juvenile,” in general, as a person who has not attained his eighteenth birthday; and

Whereas, federal law requires that juvenile inmates be housed in a facility separated by sight and sound from adult inmates; and

Whereas, state law requires that juvenile inmates be housed for not longer than six hours in a facility separated by sight and sound from adult inmates and, thereafter, may not be housed in an adult jail or other place of detention for adults; and

Whereas, incarcerated juvenile inmates and pretrial juvenile detainees that cannot be adequately housed in county detention centers in compliance with state law are committed to the South Carolina Department of Juvenile Justice; and

Whereas, in order to comply with the requirements of state law, juveniles detained by the South Carolina Department of Juvenile Justice that turn seventeen years of age before adjudication, are to stand trial as an adult, or are sixteen years of age or older and charged with a Class A, B, C, or D felony are discharged to county detention centers; and

Whereas, the conflicting definitions of “juvenile” in state and federal law have led to noncompliance of federal law at some prison facilities in South Carolina that house inmates that are seventeen years of age and older; and

Whereas, in order to facilitate federal compliance at county detention centers concerning the housing of inmates, the definitions of “child” and “juvenile” in South Carolina law must be reconciled with the definitions in federal law. Now, therefore,

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

SECTION 1. Section 63‑19‑20(1) of the 1976 Code is amended to read:

“(1) ‘Child’ or ‘juvenile’ means a person less than seventeen years of age; however, in the case of a pretrial detainee, ‘child’ or ‘juvenile’ means a person who has not attained his eighteenth birthday. ‘Child’ or ‘juvenile’ does not mean a person sixteen years of age or older who is ~~charged with~~ convicted of a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more. ~~However,~~ A person sixteen years of age who is charged with a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.”

SECTION 2. Section 63‑19‑820(C) of the 1976 Code is amended to read:

“(C) No child may be placed in secure confinement or ordered detained by the court in secure confinement in an adult jail or other place of detention for adults for more than six hours. ~~However, the prohibition against the secure confinement of juveniles in adult jails does not apply to juveniles who have been waived to the court of general sessions for the purpose of standing trial as an adult.~~ Juveniles placed in secure confinement in an adult jail during this six‑hour period must be confined in an area of the jail which is separated by sight and sound from adults similarly confined.”

SECTION 3. This act takes effect upon approval by the Governor.

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