~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 24, 2013

**H. 3856**

Introduced by Reps. Erickson, M.S. McLeod, Spires, Mitchell, Cobb‑Hunter, Long, Murphy, Munnerlyn, Sabb, King, K.R. Crawford, Jefferson, H.A. Crawford, McCoy, Robinson‑Simpson, Allison, Horne, W.J. McLeod, McEachern, Dillard, Felder, Gagnon, Henderson, Nanney, Powers Norrell, Sandifer, Stavrinakis and Wood

S. Printed 4/24/13--H.

Read the first time March 21, 2013.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3856) to amend Section 63‑13‑40, Code of Laws of South Carolina, 1976, relating to criminal background checks for employment in childcare facilities, so as to also, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Social Services and the Commission on Higher Education estimate this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 63‑13‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT IN CHILDCARE FACILITIES, SO AS TO ALSO PROHIBIT SUCH EMPLOYMENT OF A PERSON WHO HAS BEEN CONVICTED OF UNLAWFUL CONDUCT TOWARD A CHILD, CRUELTY TO CHILDREN, OR CHILD ENDANGERMENT.

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

SECTION 1. Section 63‑13‑40(A) of the 1976 Code is amended to read:

“(A) No childcare center, group childcare home, family childcare home, or church or religious childcare center may employ a person or engage the services of a caregiver who is required to register under the sex offender registry act pursuant to Section 23‑3‑430 or who has been convicted of:

(1) a crime listed in Chapter 3 ~~of~~, Title 16, Offenses Against the Person;

(2) a crime listed in Chapter 15 ~~of~~, Title 16, Offenses Against Morality and Decency;

(3) the crime of contributing to the delinquency of a minor, contained in Section 16‑17‑490;

(4) unlawful conduct toward a child, as provided for in Section 63‑5‑70;

(5) cruelty to children, as provided for in Section 63‑5‑80;

(6) child endangerment, as provided for in Section 56‑5‑2947;

(7) the felonies classified in Section 16‑1‑10(A), except that this prohibition does not apply to Section 56‑5‑2930, the Class F felony of driving under the influence pursuant to Section 56‑5‑2940(4) if the conviction occurred at least ten years prior to the application for employment and the following conditions are met:

(a) the person has not been convicted in this State or any other state of an alcohol or drug violation during the previous ten‑year period;

(b) the person has not been convicted of and has no charges pending in this State or any other state for a violation of driving while his license is canceled, suspended, or revoked during the previous ten‑year period; and

(c) the person has completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency.

A person who has been convicted of a first‑offense violation of Section 56‑5‑2930 must not drive a motor vehicle or provide transportation while in the official course of his duties as an employee of a childcare center, group childcare home, family childcare home, or church or religious childcare center.

If the person subsequently is convicted of, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56‑5‑2930 or for a violation of another law or ordinance of this State or any other state or of a municipality of this State or any other state that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, the person’s employment must be terminated;

~~(5)~~(8) the offenses enumerated in Section 16‑1‑10(D); or

~~(6)~~(9) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit employment or provision of caregiver services when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, an operator or the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment or to provide caregiver services.”

SECTION 2. This act takes effect upon approval by the Governor and applies to childcare facilities and persons seeking employment or to provide caregiver services at a childcare facility on and after this act’s effective date.

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