**South Carolina General Assembly**

121st Session, 2015-2016

**H. 5318**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Ballentine

Document Path: l:\council\bills\bh\26431vr16.docx

Introduced in the House on May 4, 2016

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

Summary: Child support

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/4/2016 House Introduced and read first time ([House Journal‑page 104](file:///h:\HJ%20Archive\2016\05-04-16.docx))

5/4/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 104](file:///h:\HJ%20Archive\2016\05-04-16.docx))

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**VERSIONS OF THIS BILL**

[5/4/2016](file:///p:\pprever\2015-16\5318_20160504.docx)

**A** **BILL**

TO AMEND SECTION 43‑5‑220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHILD SUPPORT, SO AS TO REQUIRE THE USE OF ESTABLISHED CHILD SUPPORT GUIDELINES; TO AMEND SECTION 63‑17‑1210, RELATING TO THE EMPLOYER NEW HIRE REPORTING PROGRAM, SO AS TO REQUIRE EMPLOYERS TO PARTICIPATE IN THE PROGRAM, ADD EMPLOYER REPORTING REQUIREMENTS, AND MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 63‑17‑2310, AS AMENDED, RELATING TO INFORMATION TO BE PROVIDED BY CERTAIN ENTITIES TO THE CHILD SUPPORT SERVICES DIVISION OF THE DEPARTMENT OF SOCIAL SERVICES TO ASSIST WITH CHILD SUPPORT COLLECTION, SO AS TO ADD REQUIREMENTS FOR UTILITIES AND ENTITIES WHICH ADMINISTER PUBLIC ASSISTANCE PROGRAMS AND ADD CERTAIN PENALTIES FOR THE FAILURE TO PROVIDE INFORMATION; TO AMEND SECTION 63‑17‑2320, RELATING TO INFORMATION TO BE PROVIDED BY FINANCIAL INSTITUTIONS TO THE DIVISION TO ASSIST WITH CHILD SUPPORT COLLECTION, SO AS TO REQUIRE FINANCIAL INSTITUTIONS TO ENCUMBER THE ASSETS OF A PERSON OWING CHILD SUPPORT UNDER CERTAIN CIRCUMSTANCES AND ADD PENALTIES FOR THE FAILURE TO ENCUMBER ASSETS; TO AMEND SECTIONS 63‑17‑2710, 63‑17‑2720, 63‑17‑2730, AND 63‑17‑2740, ALL RELATING TO CHILD SUPPORT ARREARAGE LIENS, SO AS TO RESOLVE AMBIGUITIES IN THE PROVISIONS AND ESTABLISH PENALTIES FOR THE FAILURE OF CERTAIN ENTITIES TO ENCUMBER OR SURRENDER PROPERTY OF A PERSON OWING CHILD SUPPORT; AND TO AMEND SECTIONS 63‑17‑3010 AND 63‑17‑3810, BOTH AS AMENDED, AND SECTION 63‑17‑3935, ALL RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT, SO AS TO MAKE TECHNICAL CORRECTIONS AND CHANGES TO ENSURE COMPLIANCE WITH FEDERAL LAW.

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

SECTION 1. Section 43‑5‑220(b) and (d) of the 1976 Code is amended to read:

“(b) The department shall establish ~~a scale of suggested minimum contributions~~ mandatory child support guidelines to assist courts in determining the amount that an absent parent should be expected to pay toward the support of a dependent child. The scale shall include consideration of gross income, shall authorize expense deductions including deductions for taxes for determining net income, shall designate other available resources to be considered and shall specify the circumstances which should be considered in reducing liability on the basis of hardship. Copies of this scale shall be made available to courts, county attorneys, circuit solicitors, and to the public. ~~It is intended that~~ The scale formulated pursuant to this section ~~be optional, and that no court or support official be required to use it~~ is mandatory for usage by all courts pursuant to the provisions of Sections 43‑5‑580 and 63‑17‑470.

(d) When the department has obtained sufficient information concerning the absent parent, it shall immediately determine his ability to support his children and shall obtain a court order specifying an appropriate amount of support in accordance with the ~~scale of suggested minimum contributions~~ child support guidelines as provided in subsection (b). If the absent parent is residing out of the county, but within the State, and his whereabouts are known, the department shall obtain the court order in the court of competent jurisdiction ~~as set forth in Section 14‑21‑830~~. Court orders of support shall in all cases specify that the payment of support shall be made directly to the department as reimbursement for assistance and not to the spouse of the absent parent. The support rights assigned to the State shall constitute an obligation owed to the State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable state and local processes. The amount of such obligations shall be:

(1) the amount specified in a court order which covers the assigned support rights;

(2) if there is no court order, an amount determined by the State in accordance with ~~a formula approved by~~ the child support guidelines established pursuant to subsection (b);

(3) ~~Any amounts collected from an absent parent under the plan shall reduce~~ reduced, dollar for dollar, ~~the amount of his obligation~~ by any amounts collected from an absent parent under the plan. A debt which is a child support obligation assigned to the department under this section is not released by a discharge in bankruptcy under the Bankruptcy Act.”

SECTION 2. Section 63‑17‑1210 of the 1976 Code is amended to read:

“(A) By January 1, 1996, the Child Support ~~Enforcement~~ Services Division of the Department of Social Services shall create and develop an Employer New Hire Reporting program. The Employer New Hire Reporting program shall provide a means for employers to ~~voluntarily~~ assist in the state’s efforts to locate absent parents who owe child support and collect child support from those parents by reporting information concerning newly hired and rehired employees directly to the division.

(B) The following provisions apply to the Employer New Hire Reporting program:

(1) An employer doing business in this State ~~may~~ must participate in the Employer New Hire Reporting program by reporting to the Child Support ~~Enforcement~~ Services Division:

(a) the hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; or

(b) the rehiring or return to work of an employee who was laid off, furloughed, separated, granted leave without pay, or terminated from employment.

(2) The Employer New Hire Reporting program applies to a person who is expected to:

(a) be employed for more than one month’s duration;

(b) be paid for more than three hundred fifty hours during a continuous six‑month period; or

(c) have gross earnings of more than three hundred dollars in each month of employment.

(3) An employer who ~~voluntarily~~ reports under item (1) shall submit monthly reports regarding each hiring, rehiring, or return to work of an employee during the preceding month. The report must contain:

(a) the employee’s name, address, social security number, date of birth, and salary information; ~~and~~

(b) the date services for renumeration were first performed by the employee; and

~~(b)~~(c) the employer’s name, address, and ~~employer identification~~ the identifying number assigned to the employer under Section 6109 of the Internal Revenue Code of 1986.

(4) Employers reporting to the Employer New Hire Reporting program shall provide information to the Child Support ~~Enforcement~~ Services Division by:

(a) sending a copy of the new employee’s W‑4 form;

(b) completing a form supplied by the Child Support ~~Enforcement~~ Services Division; or

(c) any other means authorized by the Child Support ~~Enforcement~~ Services Division for conveying the required information, including electronic transmission or magnetic tapes in compatible formats.

(5) An employer is authorized by this section to disclose the information described in item (3) and is not liable to the employee for the disclosure or subsequent use by the Child Support ~~Enforcement~~ Services Division of the information.

(6) Information received by the South Carolina Department of Employment and Workforce from employers which includes information contained in the reports provided for in this section must be transmitted to the Department of Social Services within fifteen working days after the end of each quarter.”

SECTION 3. Section 63‑17‑2310 of the 1976 Code, as last amended by Act 74 of 2013, is further amended to read:

“Section 63‑17‑2310. (A) The Child Support Services Division of the Department of Social Services shall attempt to locate individuals for the purposes of establishing paternity and establishing, modifying, and enforcing a child support ~~obligations~~ obligation. ~~In all cases not being administered pursuant to Title IV‑D of the Social Security Act by the department, the clerk of court may attempt to locate individuals for the purpose of enforcing child support obligations.~~ Notwithstanding any other provision of law making this information confidential, ~~these~~ the following entities in this State ~~promptly~~ shall provide promptly to the ~~department~~ division, its designee or a federally approved child support agency of another state, ~~or to the clerk of court, information upon request of the department or another agency for the purpose of establishing paternity or establishing, modifying, or enforcing a support obligation or the clerk of court~~ the following information, upon request by the division or other agency, for the purpose of establishing paternity or establishing, modifying, or enforcing a child support ~~obligations~~ obligation:

(1) All entities in the State including, but not limited to, for‑profit, nonprofit and governmental employers, and labor organizations shall provide the full name, social security number or the alien identification number assigned to a resident alien who does not have a social security number, date of birth, home address, wages or salary, existing or available medical, hospital, and dental insurance coverage, and number of dependents listed for tax purposes on all employees, contractors, and members of labor organizations.

(2) All utility companies, including wire and nonwire telecommunication companies, cable television companies, and financial institutions, shall provide the full name, social security number or the alien identification number assigned to a resident alien who does not have a social security number, date of birth, home address, telephone number, account numbers, and other identifying data, including information on assets and liabilities, on all persons who maintain an account with that entity or for whom the entity is in possession or control of property, tangible or intangible, whether real or personal, or an interest in property, whether legal or equitable, which is subject to payment, disbursement, or other method of transfer, by the entity to such person. For purposes of this item, a financial institution is defined as a federal, state, commercial, or savings bank, savings and loan association, cooperative bank, federal or state chartered credit union, benefit association, insurance company, safe deposit company, money market mutual fund, or investment company doing business in this State.

(3) The appropriate state or local agency of this State shall provide access to information contained in these records:

(a) vital statistics;

(b) state and local tax and revenue records;

(c) records concerning real and titled property;

(d) records of occupational and professional licenses;

(e) records concerning the ownership and control of corporations, partnerships, and other business entities;

(f) employment security records;

(g) records of agencies administering public assistance programs;

(h) records of motor vehicle departments; and

~~(h)~~(i) corrections records.

A state or local agency, board, or commission ~~that~~ which provides this information ~~pursuant to this subsection~~ to the ~~department~~ division~~, or to the clerk of court in non‑Title IV‑D cases,~~ may not charge the ~~department~~ division ~~or the clerk of court~~ a fee for providing the information; however, a commission that receives federal grants, the uses of which are restricted, may charge a fee for providing the information.

(B) An entity that provides information pursuant to this section in good faith reliance upon certification by the ~~department~~ division~~, or to the clerk of court in non‑Title IV‑D cases,~~ that the information is needed to establish paternity or to establish, modify, or enforce a support obligation is not liable for damages resulting from the disclosure.

(C) An entity that fails to provide the requested information within thirty days of the request may be subject to a civil penalty of one hundred dollars for each occurrence. Fines imposed pursuant to this subsection must be enforced as provided for in Section 63‑3‑530(A)(43) and distributed according to Section 63‑17‑520. The failure or refusal of an entity, upon request of the division, to provide the requested information also shall subject the entity to the contempt power of the family court, as provided in Section 63‑3‑530.”

SECTION 4. Section 63‑17‑2320 of the 1976 Code is amended to read:

“Section 63‑17‑2320. (A) In the manner and form prescribed by the Child Support ~~Enforcement~~ Services Division of the Department of Social Services, a financial institution, as defined in Section 63‑17‑2310(A)(2), on a quarterly basis, shall provide the division or its designee information on account holders for use in the establishment, enforcement, and collection of child support obligations including, but not limited to:

(1) full name;

(2) social security number or taxpayer identification number, or the alien identification number assigned to a resident alien who does not have a social security number;

(3) record address;

(4) account numbers; and

(5) information on assets and liabilities.

(B) Utilizing automated data exchanges to the maximum extent feasible, a financial institution shall provide for each calendar quarter the name, address, social security number, or the alien identification number assigned to a resident alien who does not have a social security number, and other identifying information for each noncustodial parent who maintains an account at the institution and who owes past‑due support, as identified by the division by name and social security number, or the alien identification number assigned to a resident alien who does not have a social security number.

(C) In response to a notice of lien or levy provided by the division, a financial institution ~~shall~~ must encumber or surrender, as ~~the case may be~~ directed by the division, assets held by the institution on behalf of a noncustodial parent who is subject to a child support lien. Issuance of a notice of lien or levy to a financial institution by the division shall be deemed to constitute conclusive evidence of the validity of the underlying lien and a financial institution shall not refuse to encumber assets in response to the notice of lien or refuse to surrender assets in response to a notice of levy provided by the division. Notwithstanding any other provision of federal or state law, the financial institution is not liable to any person, organization, or entity for encumbering or surrendering assets of a noncustodial parent in response to a notice of lien or levy by the division. The failure or refusal of a financial institution, in response to a notice of lien or levy by the division, to encumber or surrender the assets held by the financial institution on behalf of the noncustodial parent who is subject to a child support lien, shall subject the financial institution to the contempt power of the family court, as provided in Section 63‑3‑530.

(D) The ~~department~~ division shall pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual costs incurred by the financial institution.

(E) This section remains in effect until the federal mandate requiring the operation of a financial institution data match program is repealed.”

SECTION 5. Section 63‑17‑2710 of the 1976 Code is amended to read:

“Section 63‑17‑2710. A child support obligation which is unpaid in an amount equal to or greater than one thousand dollars, as of the date on which it was due, is a lien in favor of the obligee in an amount sufficient to satisfy unpaid child support, whether the amount due is a fixed sum or is accruing periodically. An amount of restitution established by the Department of Social Services, Child Support ~~Enforcement~~ Services Division, or its designee (division) or the family court is due and payable as of the date the amount is established. The lien shall incorporate any unpaid child support which may accrue in the future and does not terminate except as provided in Section 63‑17‑2730. Upon perfection, recordation, or registration in accordance with Section 63‑17‑2730, the lien shall encumber all tangible and intangible property, whether real or personal, and an interest in property, whether legal or equitable, belonging to the obligor. An interest in property acquired by the obligor after the child support lien arises is subject to the lien, subject to the limitations provided in Section 63‑17‑2730.”

SECTION 6. Section 63‑17‑2720 of the 1976 Code is amended to read:

“Section 63‑17‑2720. When the division determines that child support is unpaid in an amount equal to or greater than one thousand dollars, it shall send written notice of the existence of a child support arrearage lien, pursuant to Section 63‑17‑2710, to the obligor by first‑class mail to the obligor’s last known address, as filed with the tribunal pursuant to Section 63‑17‑450. The notice shall advise the obligor of the existence of the lien, specify the amount unpaid as of the date of the notice or other date certain, and inform the obligor of the right ~~of the obligor~~ to request an administrative review in order to contest the existence of the lien or the amount of unpaid support by filing a written request with the division within thirty days of the date of the notice. If the obligor files a timely written request for an administrative review, the division shall hold in abeyance any action to levy on the assets of the obligor subject to the child support arrearage lien created pursuant to Section 63‑17‑2710 and shall conduct the administrative review within thirty days of receiving the request. If the obligor fails to file a timely written request for administrative review, the division may proceed to levy on all property of the obligor, to include property held by financial institutions, subject to the limitations provided in Section 63‑17‑2740.”

SECTION 7. Section 63‑17‑2730(A) of the 1976 Code is amended to read:

“(A)(1) The division shall file notice of a lien with respect to real property with the register of deeds for any county in the State where the obligor owns property. The social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of the obligor must be noted on the notice of the lien. The filing operates to perfect a lien when recorded, as to any interest in real property owned by the obligor that is located in the county where the lien is recorded. Liens created under this section must be maintained by the register of deeds of each county of the State, in accordance with established local procedures for recordation. If the obligor subsequently acquires an interest in real property, the lien is perfected upon the recording of the instrument by which the interest is obtained in the register of deeds where the notice of the lien was filed within six years prior thereto. A child support lien is perfected as to real property when both the notice thereof and a deed or other instrument in the name of the obligor are on file in the register of deeds for the county where the obligor owns property without respect to whether the lien or the deed or other instrument was recorded first.

(2) The division also shall file notice of a child support lien, with the social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of the obligor on the notice, with respect to personal property with the Department of Natural Resources, a county, or other office or agency responsible for the filing or recording of liens. The filing of a notice of a lien or of a waiver or release of a lien must be received and registered or recorded without payment of a fee. The division may file notice of a lien or waiver or release of a lien or may transmit information to or receive information from any registry of deeds or other office or agency responsible for the filing or recording of liens by any means, including electronic means. Any lien placed against a vehicle with a title issued by the Department of Motor Vehicles is not perfected until notation of the lien is recorded on the vehicle’s title by the Department of Motor Vehicles. No fee is required to reissue this title. A lien against any other personal property of the obligor, held by the obligor or by another person, organization, or financial institution, whether tangible or intangible, or against any interest in property, whether legal or equitable, belonging to the obligor, held by the obligor or by another person, organization, or financial institution, which property or interest in property is not subject to filing or registration with the Department of Natural Resources, the Department of Motor Vehicles or with a county or other office or agency responsible for the filing or recording of liens, is considered to be perfected upon the division’s mailing to the obligor the notice required by Section 63‑17‑2720. No other action is required to be performed by the division with respect to such other personal property in order to perfect the lien. The perfected lien is not subordinate to a recorded lien except a lien that has been perfected before the date on which the child support lien was perfected. The division, upon request of the obligor, may subordinate the child support lien to a subsequently perfected mortgage. To assist in the collection of a debt by the division, the division may disclose the name of an obligor against whom a lien has arisen and other identifying information including the existence of the lien and the amount of the outstanding obligation.”

SECTION 8. Section 63‑17‑2740 of the 1976 Code is amended to read:

“Section 63‑17‑2740. (A) If an obligor against whom a lien has arisen and has been perfected under Section 63‑17‑2730 neglects or refuses to pay the sum due after the expiration of the thirty‑day notice period specified in Section 63‑17‑2720, the division may collect the unpaid child support and levy upon all property as provided in this section. For the purposes of this section, ‘levy’ includes the power of distraint and seizure by any means. A person, organization, or financial institution in possession of property upon which a lien having priority under Section 63‑17‑2730 has been perfected, upon demand, shall surrender the property to the division as pursuant to this section. Financial institutions which hold assets of an obligor, after proper identification and notification by the division, shall encumber or surrender deposits, credits, or other personal property held by the institution on behalf of an obligor who is subject to a child support lien, as directed by the division, pursuant to Section 63‑17‑2320. Financial institutions are allowed to either submit account information directly to the State where it is matched against the parent data base, or financial institutions may request a file and complete the comparison and submit it directly to the State. The social security number must be used for the matching process and not the full name of the person who maintains an account with that entity. A levy on property held by an organization with respect to a life insurance or endowment contract, without necessity for the surrender of the contract document, constitutes a demand by the division for payment of the amount of the lien and the exercise of the right of the obligor to the advance of the amount. The organization shall pay the amount ninety days after service of the notice of levy. The levy is considered satisfied if the organization pays over to the division the full amount which the obligor could have had advanced to him, if the amount does not exceed the amount of the lien. Whenever any property upon which levy has been made is not sufficient to satisfy the claim of the state for which levy is made, the division thereafter, as often as may be necessary, proceed to levy, without further notice, upon any other property of the obligor subject to levy upon first perfecting its lien as provided in Section 63‑17‑2730, until the amount due from the obligor and the expenses are fully paid. With respect to a seizure or levy of real property or tangible personal property, which is subject to filing or registration with the Department of Natural Resources, the Department of Motor Vehicles, or a county or other office or agency responsible for the filing or recording of liens, the sheriff shall proceed in the manner prescribed by Sections 15‑39‑610, et seq., insofar as these sections are not inconsistent with this article. The division has rights to property remaining after satisfying superior perfected liens, as provided in Section 63‑17‑2730.

(B) Upon demand by the division, a person, organization, or financial institution which ~~who~~ fails or refuses to surrender property subject to levy pursuant to this section is liable ~~in his own person and estate~~ to the State in a sum equal to the value of the property not so surrendered but not exceeding the amount of the lien, and the costs at the rate established by Section 23‑19‑10. The failure or refusal of a person, organization, or financial institution, upon demand of the division, to encumber or surrender property of an obligor subject to a child support arrearage lien, pursuant to Section 63‑17‑2710, also shall subject the person, organization, or financial institution to the contempt power of the family court, as provided in Section 63‑3‑530.

(C) A person in possession of, or obligated with respect to, property who, upon demand by the division, encumbers or surrenders the property or discharges the obligations to the division or who pays a liability under this article, must be discharged from any obligation or liability to the obligor arising from the surrender or payment. A levy on an organization with respect to a life insurance or endowment contract which is satisfied pursuant to this article, discharges the organization from any obligation or liability to any beneficiary arising from the surrender or payment.”

SECTION 9. Section 63‑17‑3010 of the 1976 Code, as last amended by Act 33 of 2015, is further amended to read:

“Section 63‑17‑3010. (A) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual’s guardian or conservator if:

(1) the individual is personally served with notice and a summons within this State;

(2) the individual submits to the jurisdiction of this State by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this State;

(4) the individual resided in this State and provided prenatal expenses or support for the child;

(5) the child resides in this State as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage of a child in the putative father registry maintained in this State by the Department of Social Services; or

(8) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

(B) The bases of personal jurisdiction set forth in subsection (A) or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of this State to modify a child‑support order of another state unless the requirements of Section 63‑17‑3830 ~~or 63‑17‑3870~~ are met, or in the case of a foreign support order, unless the requirements of Section 63‑17‑3870 are met.”

SECTION 10. Section 63‑17‑3810 of the 1976 Code, as last amended by Act 33 of 2015, is further amended to read:

“Section 63‑17‑3810. A party or support enforcement agency seeking to modify, or to modify and enforce, a child‑support order issued in another state shall register that order in this State in the same manner provided in ~~subpart~~ subparts 1 and 2 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.”

SECTION 11. Section 63‑17‑3935(B) of the 1976 Code, as added by Act 33 of 2015, is amended to read:

“(B) Notwithstanding Sections 63‑17‑3320 and 63‑17‑3620(A), a request for registration of a convention support order must be accompanied by:

(1) a complete text of the support order;

(2) a record stating that the support order is enforceable in the issuing country;

(3) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) a record showing the amount of arrears, if any, and the date the amount was calculated;

(5) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.”

SECTION 12. This act takes effect upon approval by the Governor.

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