~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 22, 2018

**S. 1033**

Introduced by Senators Shealy, Hutto, McElveen, Jackson, Hembree, Climer, Young, Turner, Campbell, Goldfinch, Gregory, Bennett, Verdin and M.B. Matthews

S. Printed 3/22/18--S.

Read the first time February 21, 2018.

**THE GENERAL COMMITTEE**

To whom was referred a Bill (S. 1033) to amend Section 63-7-1640 of the 1976 Code, relating to family preservation and reunification, to allow the Department of Social Services to forego reasonable efforts to reunify, 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, page 2, by striking lines 2 through 8 and inserting:

/ “(27) ‘Torture’ means engaging in a repeated pattern of conduct, with reckless disregard for the safety and wellbeing of a child, that results in physical injury causing prolonged suffering, disfigurement, or dysfunction of any bodily organ or function and substantial mental injury as evidenced by an observable and substantial impairment of the ability of the child to function within the child’s normal range of performance or behavior. /

Amend the bill further, as and if amended, by striking SECTION 5 in its entirety and inserting:

/SECTION 5. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑100. (A) For purposes of this section, ‘torture’ means engaging in a repeated pattern of conduct, with reckless disregard for the safety and wellbeing of a child, that results in physical injury causing prolonged suffering, disfigurement, or dysfunction of any bodily organ or function and substantial mental injury as evidenced by an observable and substantial impairment of the ability of the child to function within the child’s normal range of performance or behavior.

(B) It is unlawful for a child’s parent or guardian, an adult with whom the child’s parent or guardian is cohabitating, or any other person responsible for a child’s welfare as defined in Section 63‑7‑20 to torture a child. A person who is convicted of or pleads guilty to violating the provisions of this subsection is guilty of a felony and, upon conviction, may be imprisoned for life but not less than a term of twenty years.

(C) It is unlawful for a child’s parent or guardian, an adult with whom the child’s parent or guardian is cohabitating, or any other person responsible for a child’s welfare as defined in Section 63‑7‑20 knowingly to allow another person to torture a child. A person who is convicted of or pleads guilty to violating the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned for a term not less than ten years.”/

Renumber sections to conform.

Amend title to conform.

KATRINA F. SHEALY for Committee.

**A** **BILL**

TO AMEND SECTION 63-7-1640 OF THE 1976 CODE, RELATING TO FAMILY PRESERVATION AND REUNIFICATION, TO ALLOW THE DEPARTMENT OF SOCIAL SERVICES TO FOREGO REASONABLE EFFORTS TO REUNIFY A FAMILY IN THE CASE OF TORTURE; TO AMEND SECTION 63-7-2570, RELATING TO GROUNDS FOR TERMINATION OF PARENTAL RIGHTS, TO ADD TORTURE, OR CONSPIRING TO COMMIT TORTURE, AS A GROUND FOR TERMINATING A PARENT’S RIGHTS; TO AMEND SECTION 16-3-85, RELATING TO HOMICIDE BY CHILD ABUSE, TO ADD DEATH OF A CHILD BY TORTURE, OR BY CONSPIRING TO TORTURE, AS ACTIONS CONSTITUTING THE OFFENSE, AND TO ESTABLISH CRIMINAL PENALTIES; TO AMEND ARTICLE 1, CHAPTER 3, TITLE 16 OF THE 1976, RELATING TO HOMICIDE, BY ADDING SECTION 16-3-100 TO PROVIDE THAT TORTURING A CHILD, OR ALLOWING ANOTHER TO TORTURE A CHILD, IS A CRIMINAL OFFENSE, AND TO ESTABLISH PENALTIES; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 63‑7‑20(6)(f) and (27) of the 1976 Code is amended to read:

“(f) commits torture or allows torture to be committed against the child; or

(g) has committed abuse or neglect as described in subsections (a) through ~~(e)~~(f) such that a child who subsequently becomes part of the person’s household is at substantial risk of one of those forms of abuse or neglect.”

“(27) ‘Torture’ means engaging in a repeated pattern of conduct, with reckless disregard for the safety and wellbeing of a child, that results in physical injury causing prolonged suffering, disfigurement, or dysfunction of any bodily organ or function; death; or substantial mental injury as evidenced by an observable and substantial impairment of the ability of the child to function within the child’s normal range of performance or behavior.

(28) ‘Unfounded report’ means a report made pursuant to this chapter for which there is not a preponderance of evidence to believe that the child is abused or neglected. For the purposes of this chapter, it is presumed that all reports are unfounded unless the department determines otherwise.”

SECTION 2. Section 63‑7‑1640(C)(1)(d) of the 1976 Code is amended to read:

“(d) acts ~~the judge finds~~ that constitute torture; or”

SECTION 3. Section 63‑7‑2570 of the 1976 Code, as last amended by Act 36 of 2017, is further amended by adding a new item at the end to read:

“( ) A parent has committed torture, has aided or abetted in committing torture, or has conspired to or knowingly allowed another to commit torture against the child.”

SECTION 4. Section 16‑3‑85(A) and (C) of the 1976 Code is amended to read:

“(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life; ~~or~~

(2) knowingly aids and abets another person to commit child abuse or neglect, and the child abuse or neglect results in the death of a child under the age of eleven;

(3) causes the death of a child while committing torture, as defined in Section 63‑7‑20; or

(4) knowingly aids and abets another person to commit torture, as defined in Section 63‑7‑20, and the torture results in the death of a child.”

“(C) Homicide by child abuse is a felony and a person who is convicted of or pleads guilty to homicide by child abuse:

(1) under subsection (A)(1) may be imprisoned for life but not less than a term of twenty years; ~~or~~

(2) under subsection (A)(2) must be imprisoned for a term not exceeding twenty years nor less than ten years;

(3) under subsection (A)(3) must be imprisoned for life; or

(4) under subsection (A)(4) must be imprisoned for a term of not less than twenty years.”

SECTION 5. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑100. (A) It is unlawful for a child’s parent or guardian, an adult with whom the child’s parent or guardian is cohabitating, or any other person responsible for a child’s welfare as defined in Section 63‑7‑20 to torture a child. For purposes of this section, ‘torture’ means to engage in a repeated pattern of conduct, with reckless disregard for the safety and wellbeing of a child, that results in physical injury causing prolonged suffering, disfigurement, or dysfunction of any bodily organ or function; death; or substantial mental injury as evidenced by an observable and substantial impairment of the ability of the child to function within the child’s normal range of performance or behavior. A person who is convicted of or pleads guilty to violating the provisions of this subsection is guilty of a felony and, upon conviction, may be imprisoned for life but not less than a term of twenty years.

(B) It is unlawful for a child’s parent or guardian, an adult with whom the child’s parent or guardian is cohabitating, or any other person responsible for a child’s welfare as defined in Section 63‑7‑20 knowingly to allow another person to torture a child. A person who is convicted of or pleads guilty to violating the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned for a term not less than ten years.”

SECTION 6. This act takes effect upon approval by the Governor.

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