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COMMITTEE REPORT

February 18, 2021

**H. 3214**

Introduced by Reps. Bernstein, Collins, Kimmons, Felder, Cobb‑Hunter and W. Cox

S. Printed 2/18/21--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3214) to amend Section 63‑7‑2320, Code of Laws of South Carolina, 1976, relating to the Kinship Foster Care Program, etc., respectfully

**REPORT:**

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

CHRIS MURPHY for Committee.

**A** **BILL**

TO AMEND SECTION 63‑7‑2320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE KINSHIP FOSTER CARE PROGRAM, SO AS TO DEFINE “FICTIVE KIN”; TO PROVIDE THAT FICTIVE KIN ARE ELIGIBLE TO BE FOSTER PARENTS UNDER THE KINSHIP FOSTER CARE PROGRAM; AND TO PROVIDE THAT RELATIVES AND FICTIVE KIN MAY FOSTER A CHILD BEFORE BEING LICENSED AS A KINSHIP FOSTER CARE PROVIDER UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. Section 63‑7‑2320 of the 1976 Code is amended to read:

“Section 63‑7‑2320. (A) As used in this section, unless the context otherwise requires:

(1) ‘Department’ means the Department of Social Services~~; and~~.

(2) ‘Fictive kin’ means an individual who is not related by birth, adoption, or marriage to a child but who has an emotionally significant relationship with the child or the child’s family.

(3) ‘Foster parent’ means any person with whom a child in the care, custody, or guardianship of the department is placed for temporary or long‑term care.

(B) There is established a ‘Kinship Foster Care Program’ in the State Department of Social Services.

(C) When a child has been removed from his home and is in the care, custody, or guardianship of the department, the department shall attempt to identify a relative or fictive kin who would be appropriate for placement of the child in accordance with the preliminary investigation requirements of subarticle 3, Article 3 and in accordance with Section 63‑7‑1680(E)(1). If the department determines that it is in the best interest of a child requiring out‑of‑home placement that the child be placed with a relative or fictive kin for foster care, or if a relative or fictive kin advises the department that the relative or fictive kin is interested in providing placement for a child requiring foster care, and the relative or fictive kin is not already licensed to provide foster care, the department shall inform the relative or fictive kin of the procedures for being licensed as a kinship foster parent, assist the foster parent with the licensing process, and inform the relative or fictive kin of availability of payments and other services to kinship foster parents. If the relative or fictive kin is licensed by the department to provide kinship foster care services, in accordance with rules and regulations adopted by the department regarding kinship foster care, and a placement with the relative or fictive kin is made, the relative or fictive kin may receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether in money or in services.

(D) The department shall establish, in accordance with this section and the rules and regulations promulgated hereunder, eligibility standards for becoming a kinship foster parent.

(1) A person may be eligible for licensing as a kinship foster parent if he is:

(a) ~~Relatives~~ a relative within the first, second, or third degree to the parent or stepparent of a child who may be related through blood, marriage, or adoption ~~may be eligible for licensing as a kinship foster parent~~; or

(b) a person who has been identified by the department as fictive kin.

(2) The kinship foster parent must be twenty‑one years of age or older, except that if the spouse or partner of the relative or fictive kin is twenty‑one years of age or older and living in the home, and the relative or fictive kin is between eighteen and twenty‑one years of age, the department may waive the age requirement.

(3)(a) A person may become a kinship foster parent only upon the completion of a full kinship foster care licensing study performed in accordance with rules and regulations promulgated pursuant to this section. Residents of the household who are age eighteen years of age or older must undergo the state and federal fingerprint review procedures as provided for in Section 63‑7‑2340. The department shall apply the screening criteria in Section 63‑7‑2350 to the results of the fingerprint reviews and the licensing study.

(b) The department shall maintain the confidentiality of the results of fingerprint reviews as provided for in state and federal regulations.

(4) Notwithstanding the requirement that a relative or fictive kin licensed as a kinship foster parent must be licensed in accordance with the same requirements as nonrelative applicants, the department may waive, on a case‑by‑case basis, for relative or fictive kin applicants nonsafety elements as the department deems appropriate. Safety elements, such as criminal and child abuse and neglect background checks required by Title IV‑E of the Social Security Act, 42 U.S.C. Section 671(a)(20)(A), may not be waived. The department may not license a relative or fictive kin as a kinship foster parent or place the child with the relative if the placement would violate any provision of Section 63‑7‑2350. The department shall note on the standard license if there was a waiver of a nonsafety element and identify the element being waived.

(5) The department shall determine, after a thorough review of information obtained in the kinship foster care licensing process, whether the person is able to care effectively for the foster child. The review must take into consideration the parental preference and the preference for placement with a relative or fictive kin who is known to the child and who has a constructive and caring relationship with the child, as provided in Section 63‑7‑1680(E)(1). The review also must take into consideration the preference for the placement with a relative or fictive kin who, but for the removal of the child at birth, would have had a constructive and caring relationship with the child, based on the relative’s or fictive kin’s fitness and ability to care for the child.

(E)(1) The department shall involve the kinship foster parents in development of the child’s permanent plan pursuant to Section 63‑7‑1700 and other plans for services to the child and the kinship foster home. The department shall give notice of proceedings and information to the kinship foster parent as provided for elsewhere in this chapter for other foster parents. If planning for the child includes the use of childcare, the department shall pay for childcare arrangements, according to established criteria for payment of these services for foster children. If the permanent plan for the child involves requesting the court to grant custody or guardianship of the child to the kinship foster parent, the department must ensure that it has informed the kinship foster parent about adoption, including services and financial benefits that might be available.

(2) The kinship foster parent shall cooperate with any activities specified in the case plan for the foster child, such as counseling, therapy or court sessions, or visits with the foster child’s parents or other family members. Kinship foster parents and placements made in kinship foster care homes are subject to the requirements of Section 63‑7‑2310.

(F)(1) If a relative or fictive kin is not licensed as a kinship foster parent, then the department may still place the child with the relative or fictive kin notwithstanding the licensure requirement contained in this section if:

(a) the relative or fictive kin begins the kinship foster parent licensure process within a reasonable time after the placement of the child; and

(b)(i) the child has been removed from his home and is in the care, custody, or guardianship of the department, as provided in subsection (C), and the department determines that it is in the best interest of the child to be placed with a relative or fictive kin for foster care; or

(ii) a relative or fictive kin advises the department that the relative or fictive kin is interested in providing placement for the child requiring foster care.

(2) During the licensure process, a relative or fictive kin with whom a child has been placed pursuant to item (1) and who has begun the kinship licensure process shall have the same legal status and access to services as a licensed kinship foster care provider including, but not limited to, the availability of payments and other services.”

SECTION 2. This act takes effect upon approval by the Governor.

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