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Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE

February 10, 2021

**S. 441**

Introduced by Senators Shealy, Hutto and Jackson

S. Printed 2/10/21--S.

Read the first time January 12, 2021.

**THE COMMITTEE ON**

**FAMILY AND VETERANS' SERVICES**

To whom was referred a Bill (S. 441) to amend 63-7-1210(a) of the 1976 Code, relating to Department of Social Services Investigations of Institutional Abuse, to provide for investigations of abuse in , etc., respectfully

**REPORT:**

Has polled the Bill out majority favorable.

**A** **BILL**

TO AMEND 63-7-1210(A) OF THE 1976 CODE, RELATING TO DEPARTMENT OF SOCIAL SERVICES INVESTIGATIONS OF INSTITUTIONAL ABUSE, TO PROVIDE FOR INVESTIGATIONS OF ABUSE IN QUALIFIED RESIDENTIAL TREATMENT PROGRAMS; TO AMEND SECTION 63-7-2350(A) OF THE 1976 CODE, RELATING TO RESTRICTIONS ON FOSTER CARE OR ADOPTION PLACEMENTS, TO PROVIDE CIRCUMSTANCES UNDER WHICH A CHILD MAY NOT BE PLACED IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM; TO AMEND SUBARTICLE 11, ARTICLE 3, CHAPTER 7, TITLE 63 OF THE 1976 CODE, RELATING TO JUDICIAL PROCEEDINGS, BY ADDING SECTION 63-7-1730 AND SECTION 63-7-1740, TO PROVIDE ASSESSMENT, CASE PLANNING, AND DOCUMENTATION REQUIREMENTS FOR CHILDREN PLACED IN QUALIFIED RESIDENTIAL TREATMENT PROGRAMS, AND TO PROVIDE JUDICIAL REVIEW REQUIREMENTS FOR CHILDREN PLACED IN QUALIFIED RESIDENTIAL TREATMENT PROGRAMS; TO AMEND SECTION 63-7-1700(B) OF THE 1976 CODE, RELATING TO THE CONTENTS OF A SUPPLEMENTAL REPORT FOR PERMANENCY PLANNING, TO INCLUDE JUDICIAL REVIEW REQUIREMENTS IN THE REPORT; AND TO AMEND SECTION 63-7-1700 OF THE 1976 CODE, RELATING TO PERMANENCY PLANNING, TO PROVIDE FOR JUDICIAL REVIEW OF THE PLACEMENT OF A CHILD IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 63-7-20 of the 1976 Code is amended by adding appropriately numbered new items to read:

“( ) ‘Child-care institution’ means a private child-care institution, or a public child-care institution that accommodates no more than twenty‑five children, that is licensed by the department. ‘Child-care institution’ does not include a detention facility, a forestry camp, a training school, or any other facility operated primarily for the detention or correction of children who are determined to be delinquent.

( ) ‘Qualified individual’ means a trained professional or licensed clinician. This person may be an employee of the department or affiliated with a placement setting, but the person must maintain objectivity in determining the appropriate placement for a child.

( ) ‘Qualified residential treatment program’ means a child-care institution that:

(a) has a trauma‑informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under Section 63‑7‑1730;

(b) has registered or licensed nursing staff and other licensed clinical staff who are able to:

(i) provide care within the scope of their practice as defined by law;

(ii) be on‑site according to the treatment model referred to in subitem (a); and

(iii) be available twenty-four hours a day and seven days a week;

(c) to the extent appropriate, and in accordance with a child’s best interests, facilitates the participation of family members in the child’s treatment program;

(d) facilitates outreach to the family members of a child, including siblings; documents how the outreach is made, including contact information; and maintains contact information for any known biological family and fictive kin of the child;

(e) documents how family members are integrated into the treatment process for a child, including post‑discharge, and how sibling connections are maintained;

(f) provides discharge planning and family‑based aftercare support for at least six months post‑discharge; and

(g) is licensed by the department and accredited by any of the following independent, not‑for‑profit organizations:

(i) Commission on Accreditation of Rehabilitation Facilities;

(ii) Joint Commission on Accreditation of Healthcare Organizations;

(iii) Council on Accreditation;

(iv) Teaching Family Association;

(v) Educational Assessment Guidelines Leading Toward Excellence; or

(vi) another organization approved by the department.”

SECTION 2. Section 63-7-1210(A) of the 1976 Code is amended to read:

“Section 63-7-1210. (A) The Department of Social Services is authorized to receive and investigate reports of abuse and neglect of children who reside in or receive care or supervision in residential institutions, foster homes, qualified residential treatment programs, and childcare facilities. Responsibility for investigating these entities must be assigned to a unit or units not responsible for selecting or licensing these entities. In no case does the Department of Social Services have responsibility for investigating allegations of abuse and neglect in institutions operated by the Department of Social Services.”

SECTION 3. Section 63-7-2350(A) of the 1976 Code, prior to item (1), is amended to read:

“Section 63-7-2350. (A) No child in the custody of the Department of Social Services may be placed in a foster home, adoptive home, qualified residential treatment program, or residential facility with a person if the person or anyone eighteen years of age or older residing in the home or a person working in the residential facility:”

SECTION 4. Subarticle 11, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Section 63-7-1730. (A) Children in the department’s custody who are placed in qualified residential treatment programs are subject to assessment, case planning, and documentation requirements pursuant to this section.

(B) Within thirty days of the start of a child’s placement in a qualified residential treatment program, a qualified individual must:

(1) assess the strengths and needs of the child using an age‑appropriate, evidence‑based, validated, functional assessment tool approved by the department;

(2) determine whether the needs of the child can be met with family members or through placement in a foster-family home or, if not, which placement setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short and long‑term goals for the child, as specified in the permanency plan for the child; and

(3) develop a list of child‑specific short and long‑term mental and behavioral health goals.

(C) The department shall assemble a child-and-family team for the child. The qualified individual conducting the assessment shall work in conjunction with the child-and-family team while conducting and making the assessment. The child-and-family team shall consist of all appropriate biological family members, relatives, and fictive kin of the child, and appropriate professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained fourteen years of age, the child-and-family team shall include the members of the permanency team selected by the child.

(D) The department shall develop a case plan for the child. The case plan must include:

(1) reasonable and good faith efforts by the department to identify and include all relevant individuals on a child-and-family team;

(2) all contact information for members of the child-and-family team, as well as contact information for other family members and fictive kin who are not part of the child-and-family team;

(3) evidence that meetings of the child-and-family team, including meetings relating to the assessment required under subsection (B), are held at a time and place convenient for the family;

(4) if reunification is a goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the child-and-family team;

(5) evidence that the assessment required under subsection (B) is determined in conjunction with the child-and-family team;

(6) the placement preferences of the child-and-family team relative to the assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interests; and

(7) if the placement preferences of the child-and-family team and child are not the placement setting recommended by the qualified individual conducting the assessment, the reasons why the preferences of the team and of the child were not recommended.

(E) If a qualified individual conducting an assessment determines a child should not be placed in a foster-family home, then the qualified individual shall specify in writing the reasons why the needs of the child cannot be met by the family of the child or in a foster-family home. A shortage or lack of foster-family homes shall not be an acceptable reason for determining that the needs of the child cannot be met in a foster-family home. The qualified individual shall also specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short and long‑term goals for the child, as specified in the permanency plan for the child.

Section 63-7-1740. (A) A family court shall review the status of a child placed in a qualified residential treatment program as prescribed in this section.

(B) Within sixty days of the start of each placement in a qualified residential treatment program, a family court shall:

(1) consider the assessment, determination, and documentation made by the qualified individual conducting the assessment pursuant to Section 63‑7‑1730;

(2) determine whether the needs of the child can be met through placement in a foster-family home or, if not, whether the placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short and long‑term goals for the child, as specified in the permanency plan for the child; and

(3) approve or disapprove the placement in a written court order.

(C) The written documentation required by Section 63‑7‑1730(D) and the family court’s approval or disapproval of the placement in a qualified residential treatment program shall be included in the case plan for the child and shall be incorporated in the court order.

(D) As long as a child remains in a qualified residential treatment program, the department shall submit at any subsequent hearing:

(1) evidence that an ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster-family home;

(2) evidence that placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

(3) evidence that the placement is consistent with the short and long‑term goals for the child, as specified in the permanency plan for the child;

(4) documentation of the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(5) documentation of the efforts made by the department to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster-family home.

(E) The evidence required by subsection (D) shall be included in the case plan for the child. The order of the court shall address the evidence and must state whether the court approves or disapproves the placement in a qualified residential treatment program.”

SECTION 5. Section 63-7-1700(B) of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) information that is necessary to support the determinations required by Section 63-7-1740.”

SECTION 6. Section 63-7-1700 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

“( ) If a child will remain in a qualified residential treatment program, then the court shall address in its order the evidence presented pursuant to subsection (B)( ) and must state whether the court approves or disapproves the placement in a qualified residential treatment program.”

SECTION 7. This act takes effect upon approval by the Governor.

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