**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3555**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, Erickson, Crawford, Hewitt, Davis, T. Moore, McCravy, B. Newton, West, Mitchell, Yow, Carter, Hixon, Hiott, Oremus, Landing, W. Newton, Robbins, Brewer, Weeks, Taylor and Pope

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Introduced in the House on January 10, 2023

Introduced in the Senate on April 5, 2023

Currently residing in the House

Summary: Permanency Planning

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2022 House Prefiled

12/15/2022 House Referred to Committee on **Judiciary**

1/10/2023 House Introduced and read first time ([House Journal‑page 208](h:\hj\20230110.docx))

1/10/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 208](h:\hj\20230110.docx))

1/12/2023 House Member(s) request name added as sponsor: Yow

1/18/2023 House Member(s) request name added as sponsor: Carter,
Hixon, Hiott

1/19/2023 House Member(s) request name added as sponsor: Oremus

2/1/2023 House Member(s) request name added as sponsor: Landing

3/28/2023 House Member(s) request name added as sponsor: W. Newton

3/29/2023 House Member(s) request name added as sponsor: Robbins,
Brewer

3/29/2023 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 52](h:\hj\20230329.docx))

3/30/2023 House Member(s) request name added as sponsor: Weeks

4/3/2023 Scrivener's error corrected

4/4/2023 House Member(s) request name added as sponsor: Taylor, Pope

4/4/2023 House Read second time ([House Journal‑page 31](h:\hj\20230404.docx))

4/4/2023 House Roll call Yeas-108 Nays-0 ([House Journal‑page 32](h:\hj\20230404.docx))

4/5/2023 House Read third time and sent to Senate ([House Journal‑page 23](h:\hj\20230405.docx))

4/5/2023 House Roll call Yeas-106 Nays-0 ([House Journal‑page 24](h:\hj\20230405.docx))

4/5/2023 Senate Introduced and read first time ([Senate Journal‑page 3](h:\sj\20230405.docx))

4/5/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 3](h:\sj\20230405.docx))

4/20/2023 Senate Referred to Subcommittee: Talley (ch), Matthews,
McLeod, Garrett, Gustafson

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**VERSIONS OF THIS BILL**

[12/15/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3555_20221215.docx)

[03/29/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3555_20230329.docx)

[04/03/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3555_20230403.docx)

[04/04/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3555_20230404.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

April 4, 2023

H. 3555

Introduced by Reps. G. M. Smith, Erickson, Crawford, Hewitt, Davis, T. Moore, McCravy, B. Newton, West, Mitchell, Yow, Carter, Hixon, Hiott, Oremus, Landing, W. Newton, Robbins, Brewer, Weeks, Taylor and Pope

S. Printed 04/04/23--H.

Read the first time January 10, 2023

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A bill

to amend the South Carolina Code of Laws by amending Section 63‑7‑1700, relating to Permanency planning, so as to make certain changes to promote timely permanence for children in the custody of the Department of Social Services; by amending SectionS 63‑7‑1710, 63‑7‑2530, and 63‑7‑1660, relating to termination of parental rights and removal actions, so as to make conforming changes; and by amending Section 63‑9‑710, relating to Petitions for adoption, so as to address the filing of adoption petitions for children in the custody of the Department of SOcial Services.

Amend Title To Conform

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

SECTION 1. Section 63‑7‑1700 of the S.C. Code is amended to read:

Section 63‑7‑1700. (A)(1) The family court shall review the status of a child placed in foster care upon motion filed by the department who has entered the custody of the department at a permanency planning hearing to determine a permanent plan for the child and to monitor progress toward achieving permanence in a timely manner.

(2) An action for permanency planning must be brought for a child who enters the custody of the department by any mechanism, including subarticle 3 or Section 63‑7‑1660 or 63‑9‑330. If an action is pending in the family court concerning the child, the department shall file a motion for a permanency planning hearing. If the child enters the custody of the department pursuant to Section 63‑9‑330 and no action is pending in the family court concerning the child, the department may initiate the permanency planning hearing with a summons and petition for review. All parties must be served with the motion or the summons and petition at least ten days before the hearing, and no responsive pleading is required.

(3) The initial permanency planning hearing must be held no later than one year after the date the child was first placed in foster care or another alternative setting. Subsequent permanency planning review hearings must be held as set forth in subsection (I) until permanence is achieved for the child.

(4) At the initial permanency planning hearing, the court shall review the status of the child and the progress being made toward the child's return home or toward any other permanent plan approved at the removal hearing. The court's order shall make specific findings in accordance with this section. An action for permanency planning must be brought for a child who enters the custody of the department by any mechanism, including subarticle 3 or Section 63‑7‑1660 or 63‑9‑330. If the child enters the custody of the department pursuant to Section 63‑9‑330 and no action is pending in the family court concerning the child, the department may initiate the permanency planning hearing with a summons and petition for review. All parties must be served with the motion or the summons and petition at least ten days before the hearing, and no responsive pleading is required.

(5) At the initial permanency planning hearing or at any subsequent permanency planning review hearing, upon motion of any party or party of interest, or at the court’s direction, a pending termination of parental right action may be consolidated with the permanency planning hearing.

(B) The department shall attach a supplemental report to the motion or summons and petition which must contain at least:

(1) that information necessary to support findings required in subsections (C) through (H), as applicable;

(2) the recommended permanent plan and suggested timetable for attaining permanence;

(3) a statement of whether or not the court has authorized the department to forego or terminate reasonable efforts pursuant to Section 63‑7‑1640;

(4) the most recent written report of the local foster care review board;

(5) results of consultation with children, age fourteen or older, to include the placement request of the child;

(6) steps the department is taking to facilitate the caregiver's compliance with the reasonable and prudent parent standard, pursuant to Section 63‑7‑20 and Section 63‑7‑25, and the department's efforts to determine whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities; and

(7) that information necessary to support the determinations required pursuant to Section 63‑7‑1740.

The department may use the same form for the supplemental report, reports from the department to the local foster care review board, and reports compiled for internal department reviews.

(C)(1) At the initial permanency planning hearing, the court shall approve a plan for achieving permanence for the child.

(1)(2) The court shall review the proposed permanent plans of the department, the guardian ad litem, and the local foster care review board and shall address the recommendations of each in the record before approving a permanent plan for the child.

(2)(3) At each permanency planning hearing where the department's plan is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights and adoption, the department must provide documentation of the department's intensive, ongoing, yet unsuccessful efforts to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent. If the court approves a plan of another planned permanent living arrangement (APPLA), the court must find compelling reasons for approval of the plan APPLA, including compelling reasons why reunification with the parents, custody, or guardianship with a fit and willing relative, or termination of parental rights and adoption is not in the best interest, and that the plan APPLA is and continues to be in the child's best interest. The court shall not approve or order APPLA pursuant to this item for children under the age of sixteen. At each hearing in which court approval or renewal of APPLA is requested for a child who is sixteen years or older, the court must ask the child about the child’s wishes as to the permanent plan. At each hearing in which the court approves or renews APPLA for a child over the age of sixteen years or older, the court must ask the child about the child's wishes as to the placement plan.

(3)(4) In addition to the requirements in items (1) and (2) and (3), at each permanency planning hearing, the court shall review the department's efforts to facilitate the caregiver's compliance with the reasonable and prudent parent standard pursuant to Section 63‑7‑20 and Section 63‑7‑25 and the department's efforts to determine whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities.

(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well‑being, the court shall order the child returned to the child's parent. The court may order a specified period of supervision and services not to exceed twelve months. When determining whether the child should be returned, the court shall consider all evidence; if the removal of the child from the family was due to drug use by one or both parents, then a drug test must be administered to the parent or both parents, as appropriate, and the results must be considered with all other evidence in determining whether the child should be returned to the parents' care; and the supplemental report including whether the parent has substantially complied with the terms and conditions of the placement plan approved pursuant to Section 63‑7‑1680.

(E)(1) Unless subsection (C), (F), or (G) applies, if the court determines at the permanency planning hearing that the child should not be returned to the child's parent at that time, the court's order shall require the department either to file a petition to terminate parental rights to the child or to amend the petition for removal or the complaint for removal to include an action for termination of parental rights not later than sixty days after receipt of the order completion of the hearing at which the court approves a permanent plan of termination of parental rights and adoption.

(2) If the child has been placed in a prospective adoptive home at the time of the completion of the hearing at which the court approves a permanent plan of termination of parental rights and adoption, the department may file a petition for adoption together with the petition for termination of parental rights; provided, however, the department must file the petition for adoption no later than thirty days after filing the petition for termination of parental rights.

(3) If a petition to terminate parental rights is to be filed and a prospective adoptive home has not been identified, the department shall exercise and document every reasonable effort to promote and expedite the adoptive placement and adoption of the child, including a thorough adoption assessment and child‑specific recruitment. The department must not delay planning for the adoption of the child because termination of parental rights to the child has not yet been ordered. Adoptive placements must be diligently sought for the child and failure to do so upon identifying a prospective adoptive placement who meets the preadoptive placement requirements of Chapter 9, Title 63, the department must file the petition for adoption not later than thirty days after placement of the child in the preadoptive home. The failure of the department to diligently seek an adoptive placement solely because a child is classified as a child with “special needs” is expressly prohibited. An adoption may not be delayed or denied solely because a child is classified as a child with “special needs”. For purposes of this subsection item:

(1) (a) “~~thorough~~ Thorough adoption assessment” means conducting and documenting face‑to‑face interviews with the child, foster care providers, relatives, and other significant parties, including fictive kin; and.

(2) (b) “child specific Child‑specific recruitment” means recruiting an adoptive placement targeted to meet the individual needs of the specific child including, but not be limited to, use of the media, use of photo listings, and any other in‑state or out‑of‑state resources which may be utilized to meet the specific needs of the child, unless there are extenuating circumstances that indicate that these efforts are not in the best interest of the child.

(F) If the court determines that the criteria in subsection (D) are not met but that the child may be returned to the parent within a specified reasonable time not to exceed eighteen months after the child was placed in foster care or another alternative setting, the court may order an extension of the placement plan approved pursuant to Section 63‑7‑1680 or may order compliance with a modified placement plan, but in no case may the extension for reunification continue beyond eighteen months after the child was placed in foster care or another alternative setting. An extension may be granted pursuant to this section only if the court finds:

(1) that the parent has demonstrated due diligence and a commitment to correcting the conditions warranting the removal so that the child could return home in a timely fashion;

(2) that there are specific reasons to believe that the conditions warranting the removal will be remedied by the end of the extension;

(3) that the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well‑being;

(4) that, at the time of the hearing, initiation of termination of parental rights is not in the best interest of the child; and

(5) that the best interests of the child will be served by the extended or modified placement plan.

(G) If after assessing the viability of adoption, the department demonstrates that termination of parental rights is not in the child's best interests, the court may award custody or legal guardianship, or both, to a suitable, fit, and willing relative, fictive kin, or nonrelative if the court finds this to be in the best interest of the child; however, a home study on the individual whom the department is recommending for custody of the child must be submitted to the court for consideration before custody or legal guardianship, or both, are awarded. The court may order a specified period of supervision and services not to exceed twelve months, and the court may authorize a period of visitation or trial placement prior to receiving a home study.

(H) If at the initial permanency planning hearing the court does not order return of the child pursuant to subsection (D), in addition to those findings supporting the selection of a different plan, the court shall specify in its order:

(1) what services have been provided to or offered to the parents to facilitate reunification;

(2) the compliance or lack of compliance by all parties to the placement plan approved pursuant to Section 63‑7‑1680;

(3) the extent to which the parents have visited or supported the child and any reasons why visitation or support has not occurred or has been infrequent;

(4) whether previous services should continue and whether additional services are needed to facilitate reunification, identifying the services, and specifying the expected date for completion, which must be no longer than eighteen months from the date the child was placed in foster care or another alternative setting;

(5) whether return of the child can be expected and identification of the changes the parent must make in circumstances, conditions, or behavior to remedy the causes of the child's placement or retention in foster care or another alternative setting;

(6) whether the child's placement in foster care or another alternative setting is to continue for a specified time and, if so, how long;

(7) if the child has attained the age of sixteen, the services needed to assist the child to make the transition to independent living;

(8) if placed in foster care, whether the child has provided written authorization to remain in foster care after the child'’s eighteenth birthday and whether the court finds that it would be in the child'’s best interests to remain in foster care after the child'’s eighteenth birthday for a period not to exceed the child'’s twenty‑first birthday pursuant to Article 8;

(9) whether the child’s current placement is safe and appropriate;

(10) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child’s placement or retention in foster care or another alternative setting, unless the court has previously authorized the department to terminate or forego reasonable efforts pursuant to Section 63‑7‑1640; and

(11) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific child‑specific recruitment efforts.

(I) If after the permanency planning hearing, the child is retained in foster care or another alternative setting after the initial permanency planning hearing, future permanency planning hearings must be held as follows:

(1) If the child is retained in foster care or another alternative setting and the agency is required to initiate termination of parental rights proceedings, the termination of parental rights hearing may serve as the next permanency planning hearing, but only if it is held no later than one year from the date of the previous permanency planning hearing.

(2) If the court ordered extended placement in foster care or another alternative setting for the purpose of reunification with the parent, the court must select a permanent plan for the child other than another extension for reunification purposes at the next permanency planning hearing. The hearing must be held on or before the date specified in the placement plan for expected completion of the placement plan; in no case may the hearing be held any later than six months from the date of the last court order.

(3) After the termination of parental rights hearing, the requirements of Section 63‑7‑2580 must be met. Permanency planning hearings must be held annually, starting with the date of the termination of parental rights hearing. At every permanency planning hearing after the court terminates parental rights to the child, the court shall determine whether an adoption petition has been filed and if one has not been filed, the court shall:

(a) make written findings whether the department has made reasonable efforts to move the child to permanency;

(b) evaluate whether, in light of any change in circumstances, the permanent plan of adoption remains appropriate; and

(c) enter such orders as it deems necessary to further the adoption of the child or, if appropriate, another permanent plan including, but not limited to, the award of custody or legal guardianship pursuant to subsection (G).

No further permanency planning hearings may be required after filing a decree of adoption of the child.

(4) If the court places custody or guardianship with the parent, extended family member, or suitable nonrelative and a period of services and supervision is authorized, services and supervision automatically terminate on the date specified in the court order. Before the termination date, the department or the guardian ad litem may file a petition with the court for a review hearing on the status of the placement. Filing of the petition stays termination of the case until further order from the court. If the court finds clear and convincing evidence that the child will be threatened with harm if services and supervision do not continue, the court may extend the period of services and supervision for a specified time. The court's order must specify the services and supervision necessary to reduce or eliminate the risk of harm to the child.

(5) If the child is retained in foster care pursuant to a plan other than one described in items (1) through (4), future permanency planning hearings must be held at least annually. If the child has provided written authorization to remain in foster care after the child's eighteenth birthday, the court shall specify whether it is in the child's best interests to remain in foster care for a period not to exceed the child's twenty‑first birthday pursuant to Article 8.

(J) A named party, the child's guardian ad litem, or the local foster care review board may file a motion for review of the case at any time. Any other party in interest may move to intervene in the case pursuant to the rules of civil procedure and if the motion is granted, may move for review. Parties in interest include, but are not limited to, the individual or agency with legal custody or placement of the child and the foster parent. The notice of motion and motion for review must be served on the named parties at least ten days before the hearing date. The motion must state the reason for review of the case and the relief requested.

(K) The pendency of an appeal concerning a child in the custody of the department, whether placed in foster care or another alternative setting, does not deprive the court of jurisdiction to hear a case pursuant to this section. The court shall retain jurisdiction to review the status of the child and may act on matters not affected by the appeal.

(L) In the case of a child who remains in a qualified residential treatment program, the court in its order shall address the evidence presented pursuant to subsection (B)(7) and shall state whether the court approves or disapproves the placement in a qualified residential treatment program.

SECTION 2. Section 63‑7‑1710(A) of the S.C. Code before the numbered items is amended to read:

(A) When a child is in the custody of the department, the department shall file a petition to terminate parental rights or shall join as party in a termination petition filed by another party, or may amend a petition for removal or a complaint for removal to include an action for termination of parental rights, if:

SECTION 3. Section 63‑7‑2530(B) of the S.C. Code is amended to read:

(B) The department may file an action for termination of parental rights without first seeking the court's approval of a change in the permanency plan pursuant to Section 63‑7‑1680 and without first seeking an amendment of the placement plan pursuant to Section 63‑7‑1700; additionally, the department may amend a petition for removal or a complaint for removal to include a cause of action for termination of parental rights at any time after grounds for termination of parental rights are present.

SECTION 4. Section 63‑7‑1660 of the S.C. Code is amended by adding:

(H)(1) If the court removes custody of the child and there is a pending petition for termination of parental rights filed by the department, the department shall promptly exercise and document every reasonable effort to promote and expedite an adoptive placement and the adoption of the child, and the department must not delay adoption planning because of a pending termination of parental rights action or because of an upcoming permanency planning hearing.

(2) If at any time after the court removes custody of the child the department files a petition for termination of parental rights, the department promptly shall exercise and document every reasonable effort to promote and expedite an adoptive placement and the adoption of the child prior to any permanency planning or termination of parental rights hearing, and the department must not delay adoption planning because of a pending termination of parental rights action or because of an upcoming permanency planning hearing.

SECTION 5. Section 63‑9‑710(B) of the S.C. Code is amended to read:

(B)(1) The petition must be filed within sixty days of the date the adoptee is placed for the purpose of adoption in the home of the petitioner.

(2) For a child in the custody of the department by a removal action pursuant to Section 63‑7‑1660 or an infant who has been voluntarily left with a safe haven pursuant to Section 63‑7‑40, the petition for adoption may be filed prior to issuance of a court order terminating parental rights to the child.

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

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