**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4691**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. M.M. Smith, Pope, Guffey, Nutt, Taylor, Hartnett, Leber, Vaughan, Haddon, Chumley, Beach, Kilmartin, Oremus, O'Neal, West, Gilliam, Long, Cromer, Trantham, Burns, McCravy, S. Jones, White, Magnuson, Harris, Pace and T. Moore

Companion/Similar bill(s): 234, 743, 3197, 3485

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Introduced in the House on January 9, 2024

Currently residing in the House

Summary: Parental Rights and Responsibilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/14/2023 House Prefiled

12/14/2023 House Referred to Committee on **Judiciary**

1/9/2024 House Introduced and read first time ([House Journal‑page 124](h:\hj\20240109.docx))

1/9/2024 House Referred to Committee on **Judiciary** ([House Journal‑page 124](h:\hj\20240109.docx))

1/9/2024 House Member(s) request name added as sponsor: Vaughan,
Long, Haddon, Chumley, Beach, Kilmartin,
Cromer, Oremus, O'Neal, West, Gilliam

1/10/2024 Scrivener's error corrected

1/17/2024 House Member(s) request name added as sponsor:
Trantham, Burns

1/18/2024 House Member(s) request name added as sponsor: McCravy

1/18/2024 Scrivener's error corrected

2/28/2024 House Member(s) request name added as sponsor: S.
Jones, White, Magnuson, Harris, Pace, T. Moore

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**VERSIONS OF THIS BILL**

[12/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4691_20231214.docx)

[01/10/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4691_20240110.docx)

[01/18/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4691_20240118.docx)

A BILl

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 23 TO TITLE 63 SO AS TO RECOGNIZE THAT PARENTS HAVE THE ULTIMATE RESPONSIBILITY TO DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE, AND MENTAL HEALTH OF THEIR CHILDREN; TO PROHIBIT THE STATE FROM SUBSTANTIALLY BURDENING THOSE PARENTAL RIGHTS AND TO REQUIRE THE STATE TO OBTAIN PARENTAL CONSENT IN CERTAIN CIRCUMSTANCES; TO CREATE A CAUSE OF ACTION FOR VIOLATION OF THE CHAPTER; AND FOR OTHER PURPOSES.

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

SECTION 1. Title 63 of the S.C. Code is amended by adding:

CHAPTER 23

Parental Rights and Responsibilities

Section 63-23-10. For the purposes of the chapter:

(1) “Child” means a person under the age of eighteen.

(2) “Parent” means any biological parent, adoptive parent, stepparent, legal guardian, or person with legal custody that has not been terminated by a court order.

Section 63-23-20. (A) The State, any political subdivision of the State, or any other governmental entity shall not substantially burden the fundamental right of a parent to direct the upbringing, education, health care, and mental health of that parent’s child without demonstrating that the burden is required by a compelling governmental interest of the highest order as applied to the parent and the child and is the least restrictive means of furthering that compelling governmental interest.

(B) Except as otherwise provided by law or court order, a person, private entity, government entity, or any employee or agent of any private or government entity must obtain the consent of a parent of a child before taking any of the following actions:

(1) procuring, soliciting to perform, arranging for the performance of, providing a referral for, or performing surgical procedures upon a child;

(2) procuring, soliciting to perform, arranging for the performance of, providing a referral for, or performing a physical or medical examination upon a child;

(3) prescribing or dispensing any prescription drug or medication to a child; or

(4) procuring, soliciting to perform, arranging for the performance of, providing a referral for, or performing a mental health evaluation in a clinical or nonclinical setting or mental health treatment on a child.

(C) This section shall not apply if:

(1) a parent of the child has given a blanket consent authorizing the person or entity to perform an activity listed in subsection (A); or

(2) it has been reasonably determined by the person or entity that an emergency exists and either of the following conditions is true:

(a) it is necessary to perform an activity listed in subsection (A) in order to prevent death or imminent, irreparable physical injury to the child, or

(b) a parent of the child cannot be located or contacted after a reasonably diligent effort.

(D) This section does not authorize or allow a parent to abuse or neglect a child as defined in Section 63-7-20. This section does not apply to a parental action or decision that would end life. The provisions of this section do not apply to an abortion, which shall be governed by Chapter 41, Title 44. This section does not prohibit a court from issuing an order that is otherwise permitted by law.

(E) No employee of this State, except for law enforcement personnel, shall encourage or coerce a child to withhold information from the child’s parent. Nor shall any such employee withhold from a child’s parent information that is relevant to the physical, emotional, or mental health of the child.

(F)(1) A parent may bring suit for any violation of this chapter and may raise this chapter as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the government, any private person, or any other party.

(2) A parent who successfully asserts a claim or defense under this chapter may recover declaratory relief, injunctive relief, compensatory damages, reasonable attorneys’ fees and costs, and any other appropriate relief.

(3) A government entity shall indemnify its employees for any liability incurred by the employee and for any judgment entered against the employee for claims arising under this section; provided, however, a government entity does not have to indemnify an employee if the employee was convicted of a criminal violation for the conduct from which the claim arises.

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

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