**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5012**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Henderson-Myers, Clyburn, Hosey, Dillard, Jefferson, J.L. Johnson, Bannister, Hayes, W. Jones, Lowe, Weeks, Willis, Hyde, Hager, Sandifer and Robbins

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Introduced in the House on February 1, 2024

Currently residing in the House

Summary: Juvenile Diversion Court

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/1/2024 House Introduced and read first time (House Journal‑page 10)

 2/1/2024 House Referred to Committee on **Judiciary** (House Journal‑page 10)

 2/6/2024 House Member(s) request name added as sponsor: Hyde

 2/7/2024 House Member(s) request name added as sponsor: Hager,
 Sandifer, Robbins

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**VERSIONS OF THIS BILL**

[02/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5012_20240201.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 25 TO CHAPTER 19, TITLE 63 SO AS TO ESTABLISH JUVENILE PRETRIAL DIVERSION COURTS FOR CERTAIN CHILDREN WHO COMMIT FIRST‑TIME, NONVIOLENT STATUS OFFENSES OR DELINQUENT ACTS, TO ESTABLISH PARAMETERS FOR ELIGIBILITY, AND TO DIRECT THE DEPARTMENT OF JUVENILE JUSTICE TO ESTABLISH PREDETENTION DIVERSION PROGRAMS FOR PARTICIPANTS, AMONG OTHER THINGS.

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

SECTION 1. Chapter 19, Title 63 of the S.C. Code is amended by adding:

Article 25

Juvenile Pretrial Diversion Courts

 Section 63‑19‑2510. There is created within the family courts of this State, special juvenile pretrial diversion courts. At least one juvenile pretrial diversion court of predetention nature must be established in each judicial circuit in the State to provide services to children in all counties in that circuit for the purpose of offering an alternative to referral to the juvenile justice system for all children who commit first‑time, nonviolent, as defined in Section 16‑1‑70, status offense or delinquent acts.

 Section 63‑19‑2520. (A) Each court must be available to serve all eligible children in each county in that circuit, and no child may be required to pay court or program fees. These courts must divert eligible children from initial contact with the juvenile justice system using approaches designed by the Department of Juvenile Justice that are evidence‑based, culturally relevant, trauma‑informed, developmentally appropriate, and that promote long‑term success for children.

 (B) The Department of Juvenile Justice shall develop a plan for the establishment, implementation, and oversight of predetention diversion programs around the State to which first‑time, nonviolent offenders must be referred by the juvenile pretrial diversion courts. The department shall provide competitively awarded funding to at least one such program in each judicial circuit to supplement other funding received by the program. Programs receiving funding from the department must adhere to the standards and procedures for such programs developed by the department, which must include requirements for applicants, organizational characteristics, reporting and auditing criteria, and such other standards for eligibility and accountability, and funding shall be based on the number of children served and such other requirements as may be established by the department. Predetention diversion programs may incorporate some or all of the following: educational services, including academic and vocational services; mentoring services; mental health services; and behavioral health services.

 (C) A law enforcement officer who takes a child into custody for a nonviolent offense, as defined in Section 16‑1‑70, shall utilize a database system provided by the department to review the child’s criminal history with the juvenile justice system. If the child has no prior referral to the department, the law enforcement officer must refer the child to the local juvenile pretrial diversion court for that circuit utilizing a referral form provided by the department, and must provide a copy of the referral form to the child’s parent or guardian, the department, and the entity designated to run the predetention diversion program.

 (D) If a referral to the juvenile justice system is received for a first‑time nonviolent offender, the referral may not be accepted and must be returned to the referral source with instructions to refer the child to the entity designated to run the predetention diversion program in that respective circuit.

 (E) All records of a child’s referral to and participation in a juvenile pretrial diversion court and predetention diversion program must be kept separate from records of children referred to the juvenile justice system. A referral to a juvenile pretrial diversion court and predetention diversion program is not a referral to the juvenile justice system, and accordingly, must not be reflected on a child’s criminal history.

 (F) Each predetention diversion program shall submit data to the department on at least an annual basis which identifies for each child participating in the diversion program:

 (1) the race, ethnicity, gender, and age of that child;

 (2) the alleged offense committed, including the statute number of the offense;

 (3) the county in which the offense was committed and the law enforcement agency that had contact with the child for the offense; and

 (4) other information as specified by the department or the court.

 Section 63‑19‑2530. If a child is eligible for referral to a juvenile pretrial diversion court and participates in a predetention diversion program, the child’s counsel, if any, the child, and the child’s parent or legal guardian must be notified by the law enforcement officer of the child’s eligibility. The child and his parent or legal guardian must consent to participate as consent is not obligatory. The child may participate in the predetention diversion program for three to six months, an additional six‑month extension for a total of twelve months participation may be ordered, after notice and a hearing, by the juvenile pretrial diversion court upon request of the Department of Juvenile Justice for the extension.

 Section 63‑19‑2535. If there is a victim and the child and the victim agreed to restitution, the court may order that restitution be paid independently and not as a condition of participation in the predetention diversion program.

 Section 63‑19‑2540. (A) Upon successful completion of the predetention diversion program period, the court shall dismiss the charges against the child and they may not be reinstated at a later date and time. Admissions or statements made by the child as part of a preliminary inquiry to determine eligibility to participate in the predetention program are not admissible prior to a dispositional hearing.

 (B) If, prior to discharge by the juvenile pretrial diversion court upon completion of the predetention diversion program period, the child fails to fulfill the terms and conditions of the program, the original charge may be reinstated and the case may proceed to adjudication just as if the program had never been entered into by the child.

 Section 63‑19‑2550. For purposes of this article, “child” or “juvenile” means as defined in Section 63‑19‑20.

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

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