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**VERSIONS OF THIS BILL**

[05/11/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/800_20230511.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63‑7‑40(B), RELATING TO SAFE HAVEN FOR ABANDONED BABIES, SO AS TO PROVIDE THAT THE SAFE HAVEN MUST OFFER THE PERSON LEAVING THE INFANT INFORMATION PREPARED BY THE DEPARTMENT CONCERNING THE LEGAL EFFECT OF LEAVING THE INFANT WITH THE SAFE HAVEN; BY AMENDING SECTION 63‑7‑1700(a), RELATING TO PERMANENCY PLANNING, SO AS TO DECREASE THE TIME IN WHICH A PERMANENCY PLANNING HEARING MUST BE HELD FROM NO LATER THAN ONE YEAR TO NO LATER THAN NINE MONTHS AFTER THE CHILD IS FIRST PLACED IN FOSTER CARE; BY AMENDING SECTION 63‑7‑1700(f) AND section 63‑7‑1700(h), RELATING TO AN EXTENSION FOR REUNIFICATION, SO AS TO DECREASE THE TIME IN WHICH AN EXTENSION MAY BE GRANTED FOR REUNIFICATION EFFORTS FROM EIGHTEEN MONTHS TO FIFTEEN MONTHS; BY AMENDING SECTION 63‑7‑1700(i), RELATING TO PERMANENCY PLANNING HEARINGS BY PROVIDING THAT A TERMINATION OF PARENTAL RIGHTS HEARING MAY SERVE AS THE NEXT PERMANENCY PLANNING HEARING ONLY IF IT IS HELD NO LATER THAN NINE MONTHS FROM THE DATE OF THE PREVIOUS PERMANENCY PLANNING HEARING; BY AMENDING SECTION 63‑7‑2550, RELATING TO SERVICE OF PETITION, SO AS TO PROVIDE THAT AN UNMARRIED BIOLOGICAL FATHER MUST RECEIVE SERVICE OF A TERMINATION OF PARENTAL RIGHTS ACTION; BY AMENDING SECTION 63‑7‑2570, RELATING TO GROUNDS, SO AS TO PROVIDE THAT WHEN FINDING THAT TERMINATION OF PARENTAL RIGHTS IS IN THE BEST INTEREST OF A CHILD, THE COURT MUST FIND THAT THE HOME OF THE CHILD’S PARENTS IS NOT SAFE FOR THE RETURN OF THE CHILD AT THE TIME OF THE TERMINATION OF PARENTAL RIGHTS HEARING; BY AMENDING SECTION 63‑9‑730, RELATING TO NOTICE OF ADOPTION PROCEEDINGS; SO AS TO PROVIDE THAT IF NOTICE OF AN ADOPTION PROCEEDING CANNOT BE EFFECTED BY PERSONAL SERVICE, THEN NOTICE MAY BE GIVEN BY PUBLICATION OF THE SUMMONS IN WHICH THE REQUESTED RELIEF OF TERMINATION OF PARENTAL RIGHTS OR ADOPTION, OR BOTH, IS SET FORTH; BY AMENDING SECTION 63‑9‑760, RELATING TO THE EFFECT OF A FINAL ADOPTION DECREE, SO AS TO PROVIDE THAT THE FINAL DECREE IS NOT AFFECTED BY A POSTADOPTION AGREEMENT ENTERED INTO BEFORE OR AFTER THE ADOPTION; BY ADDING SECTION 63‑9‑765, SO AS TO PROVIDE FOR POSTADOPTION CONTACT AGREEMENTS TO BE ENFORCEABLE IF AGREED TO BY THE PARTIES; BY AMENDING SECTION 63‑7‑820 RELATING TO THE PUTATIVE FATHER REGISTRY, SO AS TO PROVIDE THAT A REGISTRANT MUST INCLUDE ANY ALIASES WHEN HE REGISTERS; and BY ADDING SECTION 12‑6‑3595, SO AS TO PROVIDE FOR A TAX CREDIT FOR ANY RESIDENT TAXPAYER THAT CLAIMS THE FEDERAL TAX CREDIT FOR QUALIFIED ADOPTION EXPENSES RELATED TO A DOMESTIC ADOPTION.

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

SECTION 1. Section 63‑7‑40(B) of the S.C. Code is amended to read:

(B)(1) A facility, agency, or other location designated as a safe haven pursuant to subsection (J)(2) must post a notice prepared by the department on its premises that is prominently displayed for view by the public, stating that the facility, agency, or other location is a safe haven at which a person may leave an infant.

(2) The safe haven must offer the person leaving the infant information prepared by the department concerning the legal effect of leaving the infant with the safe haven.

(3) The safe haven must ask the person leaving the infant to identify any parent of the infant other than the person leaving the infant with the safe haven. The safe haven also must attempt to obtain from the person information concerning the infant's background and medical history as specified on a form provided by the department. This information must include, but is not limited to, information concerning the use of a controlled substance by the infant's mother, provided that information regarding the use of a controlled substance by the infant's mother is not admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The safe haven must give the person a copy of the form and a prepaid envelope for mailing the form to the department if the person does not wish to provide the information to the safe haven. The department must provide these materials to safe havens.

(4) Identifying information disclosed by the person leaving the infant must be kept confidential by the safe haven and disclosed to no one other than the department. However, if a court determines that the immunity provisions of subsection (H) do not apply, the safe haven may disclose the information as permitted by confidentiality protections applicable to records of the safe haven, if the safe haven has such confidentiality protections for records. The department must maintain confidentiality of this information in accordance with Section 63‑7‑1990.

SECTION 2. Section 63‑7‑1700(A) of the S.C. Code is amended to read:

(A) The family court shall review the status of a child placed in foster care upon motion filed by the department to determine a permanent plan for the child. The permanency planning hearing must be held no later than one year nine months after the date the child was first placed in foster care. 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.

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SECTION 3. Section 63‑7‑1700(F) of the S.C. Code is amended to read:

(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 fifteen months after the child was placed in foster care, the court may order an extension of the plan approved pursuant to Section 63‑7‑1680 or may order compliance with a modified plan, but in no case may the extension for reunification continue beyond eighteen fifteen months after the child was placed in foster care. 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 plan.

SECTION 4. Section 63‑7‑1700(H) of the S.C. Code is amended to read:

(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 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 fifteen months from the date the child was placed in foster care;

(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;

(6) whether the child's foster care 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) 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, 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 recruitment efforts.

SECTION 5. Section 63‑7‑1700(I) of the S.C. Code is amended to read:

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

(1) If the child is retained in foster care 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 nine months from the date of the previous permanency planning hearing.

(2) If the court ordered extended foster care 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 plan for expected completion of the 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. 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 every nine months. 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.

SECTION 6. Section 63‑7‑2550 of the S.C. Code is amended to read:

Section 63‑7‑2550. (A) A summons and petition for termination of parental rights must be filed with the court and served on:

(1) the child, if the child is fourteen years of age or older;

(2) the child's guardian ad litem, appointed pursuant to Section 63‑7‑2560(B), if the child is under fourteen years of age;

(3) the parents of the child; and

(4) an agency with placement or custody of the child.

(B) The right of an unmarried biological father, as defined in Section 63‑9‑820, to receive notice service of a termination of parental rights action must be governed by the notice provisions of Section 63‑9‑730(B)(1), (3), (4), (5), and (6), and Subarticle 8, Chapter 9.

SECTION 7. Section 63‑7‑2570(1) of the S.C. Code is amended to read:

(1) The child or another child while residing in the parent's domicile has been harmed as defined in Section 63‑7‑20, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve monthsthe home, at the time of the termination of parental rights’ trial, is not safe for the return of the child. In determining the likelihood that the home can be made whether the home is safe, the parent's previous abuse or neglect of the child or another child may be considered.

SECTION 8. Section 63‑9‑730 of the S.C. Code is amended to read:

Section 63‑9‑730. (A) Notice of any proceeding initiated pursuant to this article must be given to the persons or agencies specified in subsection (B) of this section, unless the person has given consent or relinquishment or parental rights have been terminated.

(B) The following persons or agencies are entitled to notice as provided in subsection (A):

(1) a person adjudicated by a court in this State to be the father of the child;

(2) a person or agency required to give consent or relinquishment pursuant to Section 63‑9‑310(A) or (B) from whom consent or relinquishment cannot be obtained;

(3) a person who has properly registered with the Responsible Father Registry at the time of the filing of the petition for termination of parental rights or adoption;

(4) a person who is recorded on the child's birth certificate as the child's father. The Department of Health and Environmental Control shall release this information to any attorney representing a party in an adoption or termination of parental rights action pursuant to a subpoena;

(5) a person who is openly living with the child or the child's mother, or both, at the time the proceeding is initiated and who is holding himself out to be the child's father;

(6) a person who has been identified as the child's father by the mother in a sworn, written statement; and

(7) a person from whom consent or relinquishment is not required pursuant to Section 63‑9‑320(A)(2).

(C) Persons specified in subsection (B) of this section are not entitled to notice if the child who is the subject of the adoption proceeding was conceived as a result of criminal sexual conduct or incest.

(D) Any person or agency entitled to notice pursuant to this section must be given notice that adoption proceedings have been initiated. Notice must be given in the manner prescribed by law for personal service of summons in civil actions. If notice cannot be effected by personal service, notice may be given by:

(1) publication of the summons in which the requested relief of termination of parental rights or adoption, or both, is set forth; or by

(2) the manner the court decides will provide notice.

(E) Notice given pursuant to this section must include notice of the following:

(1) within thirty days of receiving notice the person or agency shall respond in writing by filing with the court in which the adoption is pending notice and reasons to contest, intervene, or otherwise respond;

(2) the court must be informed of the person's or agency's current address and of any changes in address during the adoption proceedings; and

(3) failure to file a response within thirty days of receiving notice constitutes consent to adoption of the child and forfeiture of all rights and obligations of the person or agency with respect to the child.

(F) When notice of intent to contest, intervene, or otherwise respond is filed with the court within the required time period, the person or agency must be given an opportunity to appear and to be heard before the final hearing on the merits of the adoption.

(G) Petitioners must be notified by the court of notice and reasons to contest, intervene, or otherwise respond, and petitioners also must be given the opportunity to be represented or to appear and to be heard at any hearing held relating to the adoption.

SECTION 9. Section 63‑9‑760 of the S.C. Code is amended to read:

Section 63‑9‑760. (A) After the final decree of adoption is entered, the relationship of parent and child and all the rights, duties, and other legal consequences of the natural relationship of parent and child exist between the adoptee, the adoptive parent, and the kindred of the adoptive parent.

(B) After a final decree of adoption is entered, the biological parents of the adoptee are relieved of all parental responsibilities and have no rights over the adoptee.

(C) Notwithstanding any other provision to the contrary in this section, the adoption of a child by an adoptive parent does not in any way change the legal relationship between the child and either biological parent of the child whose parental responsibilities and rights are not expressly affected by the final decree.

(D) The validity of the final decree of adoption is not affected by an a postadoption agreement entered into before or after the adoption between adoptive parents and biological parents concerning visitation, exchange of information, or other interaction between the child and any other person as provided for in Section 63‑9‑765. Such an agreement does not preserve any parental rights with the biological parents and does not give to them any rights enforceable in the courts of this State.

SECTION 10. Chapter 9, Title 63 of the S.C. Code is amended by adding:

Section 63‑9‑765. (A) As used in this section, “birth relative” means:

(1) A parent, biological father who is not a legal father, grandparent, brother, sister, half‑brother, or half‑sister who is related by blood or marriage to an adoptee; or

(2) A grandparent, brother, sister, half‑brother, or half‑sister who is related by adoption to an adoptee.

(B)(1) An adopting parent or parents and birth relatives or an adopting parent or parents, birth relatives, and an adoptee who is fourteen years of age or older may voluntarily enter into a written postadoption contact agreement to permit continuing contact between such birth relatives and the adoptee. An adoptee who is fourteen years of age or older is considered a party to a postadoption contact agreement if the adoptee chooses to enter into such a contract.

(2) A postadoption contact agreement may provide for privileges regarding an adoptee, including, but not limited to, visitation with the adoptee, contact with the adoptee, sharing of information about the adoptee, or sharing of information about birth relatives.

(3) A postadoption contract is not enforceable unless the parties choose for the agreement to be enforceable. In order to be an enforceable postadoption contact agreement, such agreement must be in writing and expressly state that it is enforceable. It must be signed by all of the parties to the agreement acknowledging their consent to its terms, conditions, and enforceability.

(4) Enforcement, modification, or termination of a postadoption contact agreement is under the continuing jurisdiction of the court that granted the petition for adoption.

(5) Any party to the postadoption contact agreement may, at any time, file the original postadoption contact agreement with the court that has or had jurisdiction over the adoption if the agreement expressly provides for court enforcement of the agreement.

(C) A postadoption contact agreement shall contain the following warnings in at least fourteen‑point boldface type:

(1) After the entry of a decree for adoption, an adoption cannot be set aside due to the failure of an adopting parent, a biological parent, a birth relative, or the adoptee to follow the terms of this agreement or a subsequent modification to this agreement; and

(2) A disagreement between the parties or litigation brought to enforce, terminate, or modify this agreement does not affect the validity of the adoption and does not serve as a basis for orders affecting the custody of the adoptee.

(D)(1) As used in this subsection, the term “parties” means the individuals who signed the postadoption contact agreement currently in effect, including the adoptee if he or she is fourteen years of age or older at the time of the action regarding the agreement. The term “parties” does not include any third‑party beneficiary to the agreement.

(2) A postadoption contact agreement may always be modified or terminated if the parties have voluntarily signed a written modified postadoption contact agreement or termination of a postadoption contact agreement. A modified postadoption contact agreement may be filed with the court if the agreement provides for court enforcement of the agreement or is silent as to the issue of enforcement.

(E) With respect to postadoption contact agreements that provide for court enforcement or termination or are silent as to such matters, any party, as defined in (D)(1), may file a petition to enforce or terminate the agreement with the court that granted the petition for adoption, and the court shall enforce the terms of the agreement or terminate the agreement if the court finds by a preponderance of the evidence that the enforcement or termination is in the best interests of the child.

(F) With respect to postadoption contact agreements that provide for court modification or are silent as to modification, only the adopting parent or parents may file a petition seeking modification. A petition to modify the terms of the agreement must be filed with the court that granted the petition for adoption, and the court shall modify the agreement if the court finds by a preponderance of the evidence that there has been a material change of circumstances since the current postadoption contact agreement was executed and the modification is in the best interests of the child.

(G) A court may require the party seeking modification, termination, or enforcement of a postadoption contact agreement to participate in mediation or other appropriate alternative dispute resolution.

(H) All reasonable costs and expenses of mediation, alternative dispute resolution, and litigation shall be borne by the party, other than the adoptee, filing the action to enforce, modify, or terminate a postadoption contact agreement if no party has been found by the court as failing to comply with an existing postadoption contact agreement. Otherwise, a party, other than the adoptee, found by the court as failing to comply, without good cause, with an existing postadoption contact agreement shall bear all the costs and expenses of mediation, alternative dispute resolution, and litigation of the other party.

(I) A court shall not set aside a decree of adoption, rescind a surrender of rights or relinquishment, or modify an order to terminate parental rights or any other prior court order because of the failure of an adoptive parent, a birth relative, or the adoptee to comply with any or all of the original terms of, or subsequent modifications to, a postadoption contact agreement.

SECTION 11. Section 63‑9‑820(E) of the S.C. Code is amended to read:

(E) A claim of paternity must be signed by the registrant and must include:

(1) the registrant's name, including any aliases, address, and date of birth;

(2) the mother's name and, if known, her address and date of birth;

(3) if known, the child's name, place of birth, and date of birth;

(4) if known, the date, county, and state of conception of the child; and

(5) the date the claim is filed.

SECTION 12. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:

Section 12‑6‑3595. There is allowed a tax credit to any resident taxpayer that claims the federal tax credit for qualified adoption expenses related to a domestic adoption. This credit may be claimed in the year in which the federal credit is earned, regardless of the year in which the federal credit is first claimed, and may be carried forward for the next five tax years. The credit is equal to one hundred percent of the federal credit earned; however, regardless of the year in which this credit is claimed, for each child adopted, the credit may not exceed two thousand five hundred dollars cumulatively for all tax years. The taxpayer must provide proof of eligibility, including the adoption being domestic, and amount of the federal credit as well as any other documentation the department requires.

SECTION 13. This act takes effect upon approval by the Governor.

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