**South Carolina General Assembly**

125th Session, 2023-2024

**S. 839**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Alexander, Senn, Rankin and Shealy

Companion/Similar bill(s): 3023, 4662

Document Path: LC-0300HDB24.docx

Introduced in the Senate on January 9, 2024

Introduced in the House on March 20, 2024

Currently residing in the House Committee on **Judiciary**

Summary: Homicide by child abuse

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2023 Senate Prefiled

11/30/2023 Senate Referred to Committee on **Judiciary**

1/9/2024 Senate Introduced and read first time ([Senate Journal‑page 52](h:\sj\20240109.docx))

1/9/2024 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 52](h:\sj\20240109.docx))

1/19/2024 Senate Referred to Subcommittee: Hutto (ch), Rice, Senn,
Adams, Tedder

2/21/2024 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 9](h:\sj\20240221.docx))

2/29/2024 Senate Read second time ([Senate Journal‑page 15](h:\sj\20240229.docx))

2/29/2024 Senate Roll call Ayes-43 Nays-0 ([Senate Journal‑page 15](h:\sj\20240229.docx))

3/19/2024 Senate Read third time and sent to House

3/20/2024 House Introduced and read first time ([House Journal‑page 21](h:\hj\20240320.docx))

3/20/2024 House Referred to Committee on **Judiciary** ([House Journal‑page 21](h:\hj\20240320.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=839&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/839_20231130.docx)

[02/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/839_20240221.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

February 21, 2024

S. 839

Introduced by Senators Alexander and Senn

S. Printed 02/21/24--S.

Read the first time January 09, 2024

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The committee on Senate Judiciary

To whom was referred a Bill (S. 839) to amend the South Carolina Code of Laws by amending Section 16‑3‑85, relating to homicide by child abuse, so as to increase the age of a child under this Section, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass:

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill specifies a person is guilty of homicide by child abuse if he causes the death of a child under the age of eighteen. Currently, a person is guilty of a homicide by child abuse if the abuse results in the death of a child under the age of eleven. This bill expands the conviction of homicide by child abuse.

Judicial. Judicial reports that implementation of the bill may result in an increase in general sessions court caseloads, which can be managed using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for Judicial.

Commission on Prosecution Coordination and Commission on Indigent Defense. This bill expands the age range of children subject to homicide by child abuse from under eleven years to under eighteen years which could result in an increase in the number of cases handled by state prosecutors. The agencies anticipate being able to manage any increase in workload due to this bill using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for the Commissions.

Office of the Attorney General. The Office of the Attorney General reports that implementation of the bill will have no expenditure impact since the bill does not require the agency to perform duties outside the normal course of business.

Department of Social Services. This bill expands the age range of children subject to homicide by child abuse from under eleven years to under eighteen years. DSS notes that since this bill imposes a greater criminal penalty on perpetrators, this could potentially result in an occasional increase in the length of one of DSS’s cases as prosecutors focus on the criminal prosecution before a resolution to a DSS case. However, this bill will have no impact on how DSS currently operates in these instances. Therefore, this bill will have no expenditure impact on DSS.

Department of Corrections. This bill may result in an increase in the number of inmates housed by the Department of Corrections due to the expansion of homicide by child abuse. For reference, Judicial reports that there were twenty-three dispositions and five convictions of homicide by child abuse in FY 2022-23.

According to Corrections, in FY 2022-23, the annual total cost per inmate was $37,758, of which $34,570 was state funded. As the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined. Corrections indicates that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations. However, based on current convictions for homicide by child abuse, we anticipate any increase in inmate population can be managed within existing appropriations.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16‑3‑85, RELATING TO HOMICIDE BY CHILD ABUSE, SO AS TO INCREASE THE AGE OF A CHILD UNDER THIS SECTION FROM under the age of ELEVEN TO under the age of EIGHTEEN.

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

SECTION 1. Section 16‑3‑85 of the S.C. Code is amended to read:

Section 16‑3‑85. (A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven eighteen while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life; or

(2) knowingly aids and abets another person to commit child abuse or neglect, and the child abuse or neglect results in the death of a child under the age of eleveneighteen.

(B) For purposes of this section, the following definitions apply:

(1) “Child abuse or neglect” means an act or omission by any person which causes harm to the child's physical health or welfare;.

(2) “Harm” to a child's health or welfare occurs when a person:

(a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or

(c) abandons the child resulting in the child's death.

(C) Homicide by child abuse is a felony and a person who is convicted of or pleads guilty to homicide by child abuse:

(1) under subsection (A)(1) may be imprisoned for life but not less than a term of twenty years; or

(2) under subsection (A)(2) must be imprisoned for a term not exceeding twenty years nor less than ten years.

(D) In sentencing a person under this section, the judge must consider any aggravating circumstances including, but not limited to, a defendant's past pattern of child abuse or neglect of a child under the age of eleveneighteen, and any mitigating circumstances; however, a child's crying does not constitute provocation so as to be considered a mitigating circumstance.

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

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