**South Carolina General Assembly**

118th Session, 2009-2010

**A154, R180, S170**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Cleary and Rose

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Introduced in the Senate on January 13, 2009

Introduced in the House on May 19, 2009

Last Amended on April 20, 2010

Passed by the General Assembly on May 4, 2010

Governor's Action: May 12, 2010, Signed

Summary: Family Court

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑151

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑151

1/23/2009 Senate Referred to Subcommittee: Sheheen (ch), Knotts, Campsen, Lourie, Campbell

3/11/2009 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\03-11-09.docx)‑8

3/12/2009 Scrivener's error corrected

5/13/2009 Senate Committee Amendment Adopted [SJ](file:///h:\SJ%20Archive\2009\05-13-09.docx)‑48

5/13/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\05-13-09.docx)‑48

5/13/2009 Senate Read second time [SJ](file:///h:\SJ%20Archive\2009\05-13-09.docx)‑48

5/14/2009 Scrivener's error corrected

5/14/2009 Senate Read third time and sent to House [SJ](file:///h:\SJ%20Archive\2009\05-14-09.docx)‑26

5/19/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\05-19-09.docx)‑11

5/19/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\05-19-09.docx)‑11

3/24/2010 House Committee report: Favorable with amendment **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\03-24-10.docx)‑29

4/20/2010 House Amended [HJ](file:///h:\HJ%20Archive\2010\04-20-10.docx)‑18

4/20/2010 House Read second time [HJ](file:///h:\HJ%20Archive\2010\04-20-10.docx)‑19

4/21/2010 House Read third time and returned to Senate with amendments [HJ](file:///h:\HJ%20Archive\2010\04-21-10.docx)‑11

5/4/2010 Senate Concurred in House amendment and enrolled [SJ](file:///h:\SJ%20Archive\2010\05-04-10.docx)‑34

5/6/2010 Ratified R 180

5/12/2010 Signed By Governor

5/21/2010 Effective date 07/22/10

5/25/2010 Act No. 154

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\170_20081210.docx)

[3/11/2009](file:///p:\pprever\2009-10\170_20090311.docx)

[3/12/2009](file:///p:\pprever\2009-10\170_20090312.docx)

[5/13/2009](file:///p:\pprever\2009-10\170_20090513.docx)

[5/14/2009](file:///p:\pprever\2009-10\170_20090514.docx)

[3/24/2010](file:///p:\pprever\2009-10\170_20100324.docx)

[4/20/2010](file:///p:\pprever\2009-10\170_20100420.docx)

(A154, R180, S170)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑17‑385 SO AS TO REQUIRE THE FAMILY COURT TO ISSUE A RULE TO SHOW CAUSE UPON THE FILING OF A PETITION AND AN AFFIDAVIT THAT A PARENT HAS FAILED TO PAY COURT‑ORDERED SUPPORT FOR A CHILD, OTHER THAN PERIODIC CHILD SUPPORT PAYMENTS; TO PROVIDE FOR THE CONTENTS OF THE AFFIDAVIT AND TO REQUIRE COURT ADMINISTRATION TO PREPARE AND MAKE THE AFFIDAVIT FORM AVAILABLE TO PETITIONERS; TO SPECIFY OTHER DOCUMENTS AND INFORMATION THAT MAY ACCOMPANY THE AFFIDAVIT; TO ESTABLISH THE BURDEN OF PROOF; TO REQUIRE THE PETITIONER TO BE PRESENT AT THE HEARING; AND TO PROVIDE CIRCUMSTANCES UNDER WHICH ATTORNEY’S FEES AND LITIGATION COSTS MAY BE AWARDED.**

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

**Failure to pay court-ordered child support other than periodic child support payments**

SECTION 1. Article 3, Chapter 17, Title 63 of the 1976 Code is amended by adding:

“Section 63‑17‑385. (A) Where a court order requires a parent to provide monetary support for a child in the form of payment of health, medical, educational, or other expenses, excluding periodic child support payments, and the parent fails to do so, the other parent or the child’s custodial guardian may petition the court for relief using an authorized affidavit and supporting documents setting forth the existence of the expense and the failure of the parent to pay the required support.

(1) Within sixty days of approval of this act by the Governor, Court Administration shall prepare the authorized affidavit form and make it available to petitioners seeking relief under the provisions of this section. The authorized affidavit form must contain the following information:

(a) the names and addresses of the petitioner and the parent alleged to have failed to make the support payment;

(b) the amount and nature of the support payment the parent allegedly failed to make;

(c) the date and manner in which the petitioner notified the alleged nonpaying parent and requested payment;

(d) the response, if any, of the alleged nonpaying parent upon receiving the petitioner’s request for payment; and

(e) if the matter relates to an expense covered by an insurance policy, whether an insurance claim has been filed, and, if so, the insurance carrier’s response.

(2) The authorized affidavit may be accompanied by the following documents:

(a) a copy of the court order requiring the parent to provide monetary support for a child excluding periodic payments of funds for support;

(b) a copy of any bill, invoice, or other written document, substantiating the expense the petitioner claims the parent is required to pay;

(c) a copy of any written request for payment of the support by the petitioner to the alleged nonpaying parent;

(d) a copy of any written reply from the alleged nonpaying parent to the parent responding to the petitioner’s request for payment;

(e) if the matter relates to an expense covered by an insurance policy, a copy of all correspondence to and from the insurance carrier pertaining to payment of the claim;

(f) proof that the petitioner has satisfied that portion of the expense he is required to pay pursuant to the court order; and

(g) the current mailing address of the alleged nonpaying parent.

(3) Upon receipt of a petition accompanied by an authorized affidavit, the court shall issue a rule to show cause to the alleged nonpaying parent for nonpayment of the required support. The parent must be served in accordance with the South Carolina Rules of Civil Procedure. The court also shall provide notice of the hearing to the petitioner.

(B)(1) At the hearing on the rule to show cause, once the petitioner has established his claim, the burden is on the alleged nonpaying parent to establish a defense.

(2) The alleged nonpaying parent may assert any defense allowed by law.

(3) The petitioner must be present at the hearing and may be called upon to testify.

(C) If the family court determines that the claims or defenses of either party are frivolous, or that either party knowingly or intentionally made or filed a false authorized affidavit, or knowingly or intentionally submitted false documents in support of a claim or defense, the court may award to either party attorney’s fees and other litigation costs reasonably incurred in the prosecution or defense of the petition.”

**Time effective**

SECTION 2. This act takes effect ninety days after approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

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