**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4775**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Loftis, Norman, Gilliard, Allison, R.L. Brown, Hosey, Littlejohn and Willis

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Introduced in the House on March 24, 2010

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Childcare facilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/24/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\03-24-10.docx)‑34

3/24/2010 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** [HJ](file:///h:\HJ%20Archive\2010\03-24-10.docx)‑34

**VERSIONS OF THIS BILL**

[3/24/2010](file:///p:\pprever\2009-10\4775_20100324.docx)

**A** **BILL**

TO AMEND SECTION 63‑13‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL RECORD CHECKS AND CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT CHECKS THAT MUST BE CONDUCTED BEFORE A PERSON CAN BE EMPLOYED OR PROVIDE CAREGIVER SERVICES AT A CHILDCARE FACILITY, SO AS TO DELETE THE REQUIREMENT THAT CENTRAL REGISTRY OF ABUSE AND NEGLECT CHECKS MUST BE CONDUCTED.

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

SECTION 1. Section 63‑13‑40(D) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(D)(1) To be employed by or to provide caregiver services at a childcare facility licensed, registered, or approved under this subarticle, a person first shall undergo a state fingerprint‑based background check to be conducted by the State Law Enforcement Division (SLED) to determine any state criminal history, a fingerprint‑based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history~~, and a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child~~.

(2) However, a person may be provisionally employed or may provisionally provide caregiver services after the favorable completion of the State Law Enforcement Division name and date of birth‑based background check until such time as the SLED and Federal Bureau of Investigation fingerprint‑based background checks~~, and the Central Registry check~~ are completed if the person executes a sworn statement on a form provided by the department that he or she has not been convicted of any crime enumerated in this section and that he or she is not on the Central Registry for having perpetrated abuse or neglect upon a child. A person provisionally employed must be directly supervised by a nonprovisionally employed person at all times when providing direct care to children.

(3) Provisional status will be repealed if the requests for the ~~Central Registry check and~~ SLED and FBI fingerprint‑based background checks are not sent by facsimile, mail, or another manner approved by the department by the end of the next business day after the person was employed.

(4) If the director of a childcare facility violates the terms of provisional employment, for a first offense, the facility may not employ a person provisionally for twelve months. For a second or subsequent offense, the facility may not employ a person provisionally for twenty‑four months. The penalty shall apply to any facility that may employ the director of the facility during the period of suspension. A childcare facility owner with five or more facilities that sustains violations in twenty‑five percent or more of facilities owned in the State during a period of two years may not employ a person provisionally in any facility for twenty‑four months. The department shall have authority to determine that a violation has occurred and shall notify the owner and the director in writing of the violation and the penalty. The owner or director under penalty may appeal this determination through the process provided in this subarticle for appeal of the revocation or denial of a childcare license. Authority to employ persons in provisional status must remain suspended while the appeal is pending. Upon disposition of the appeal in favor of the appellant, authority to use provisional status must be restored.

(5) The results of the fingerprint‑based background checks are valid and reviews are not required to be repeated as long as the person remains employed by or continues providing caregiver services in a childcare center, group childcare home, family childcare home, or church or religious childcare center; however, if a person is not employed or does not provide caregiver services for one year or longer, the fingerprint reviews must be repeated.

~~(6)~~ ~~For provisional employment under this section, the department must complete the Central Registry check within two business days of receipt of the request. For other employment under this section, the department must complete the Central Registry check within five business days of receipt of the request. If the department notifies the provider that research into other records is required, these deadlines may be extended for up to ten additional business days.~~”

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

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