~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 26, 2010

**H. 3779**

Introduced by Reps. Hearn, Weeks, Bannister, Erickson, Clemmons and Viers

S. Printed 5/26/10--S.

Read the first time March 2, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3779) to amend Section 63‑7‑1620, Code of Laws of South Carolina, 1976, relating to the legal representation of children and the appointment of guardians ad litem, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, page 1, SECTION 1, Section 63-7-1620, by striking line 30 and inserting the following:

/ litem by the family court. A guardian ad litem serving on behalf of the South Carolina Guardian ad Litem Program or Richland County CASA must be represented by legal counsel in any judicial proceeding pursuant to Section 63‑11‑530(C). ~~In the event the individual appointed as~~  /

Renumber sections to conform.

Amend title to conform.

PAUL G. CAMPBELL, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department and the Governor’s Office – OEPP indicates that enactment of the bill will have no impact on the General Fund of the State, or on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 63‑7‑1620, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LEGAL REPRESENTATION OF CHILDREN AND THE APPOINTMENT OF GUARDIANS AD LITEM, SO AS TO CLARIFY WHEN AN ATTORNEY MAY BE APPOINTED TO REPRESENT A GUARDIAN AD LITEM IN A CHILD ABUSE OR NEGLECT PROCEEDING AND TO CLARIFY WHO THE COURT MAY APPOINT TO REPRESENT A CHILD IN SUCH A PROCEEDING.

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

SECTION 1. Section 63‑7‑1620 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63‑7‑1620. In all child abuse and neglect proceedings:

(1) Children must be appointed ~~legal counsel and~~ a guardian ad litem by the family court. ~~In the event the individual appointed as the guardian ad litem is an attorney guardian ad litem, the appointed individual shall serve as the guardian ad litem and legal counsel. The court must not, absent extraordinary circumstances, appoint additional legal counsel to represent an attorney guardian ad litem. The appointed attorney guardian ad litem must petition the family court for the appointment of legal counsel and set forth the extraordinary circumstances necessitating the appointment.~~

(2) The family court may appoint legal counsel for the child. Counsel for the child ~~in no case~~ may not be the same as counsel for:

(a) the parent, legal guardian, or other person subject to the proceeding; ~~or~~

(b) any governmental or social agency involved in the proceeding;

(c) the child’s guardian ad litem.

~~(2)~~(3) Parents, legal guardians, or other persons subject to any judicial proceeding are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court.

~~(3)~~(4) The interests of the State and the Department of Social Services must be represented by the legal representatives of the Department of Social Services in any judicial proceeding.”

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

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