~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 4, 2015

**H. 3099**

Introduced by Reps. McCoy, Cobb‑Hunter and Weeks

S. Printed 3/4/15--H.

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3099) to amend the Code of Laws of South Carolina, 1976, by adding Section 63‑7‑415 so as to eliminate the Tort Claims Act exception to immunity from liability, 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, by striking all after the enacting language and inserting:

/ SECTION 1. Section 63‑7‑310 of the 1976 Code, as last amended by Act 227 of 2010, is further amended to read:

“Section 63‑7‑310. (A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner’s or coroner’s office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school or college administrator, coach, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, firefighter, camp counselor, scout leader, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, and any other person whose duties require direct contact or supervision of children must report in accordance with this section when in the person’s professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63‑7‑20.

(B) If a person required to report pursuant to subsection (A) has received information in the person’s professional or volunteer capacity which gives the person reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child’s welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child’s welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) ~~Except as provided in subsection (A), a person, including, but not limited to, a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section.~~ Except as provided in subsection (A), a person who has reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section. A person in subsection (A) or (B) who reports child abuse or neglect to a supervisor or person in charge of an institution, school, facility, or agency is not relieved of the individual duty to report in accordance with this section. The duty to report is not superseded by an internal investigation within the institution, school, facility, or agency.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.”

SECTION 2. Section 63‑7‑450(A) of the 1976 Code is amended to read:

“(A) The Department of Social Services Protective Services shall inform all persons required to report ~~under this subarticle~~ pursuant to Section 63‑7‑310(A) of the nature, problem, and extent of child abuse and neglect and of their duties and responsibilities in accordance with this article. The department also, on a continuing basis, shall conduct training programs for department staff and appropriate training for persons required to report ~~under this subarticle~~ pursuant to Section 63‑7‑310(A).”

SECTION 3. This act takes effect upon approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑7‑415 SO AS TO ELIMINATE THE TORT CLAIMS ACT EXCEPTION TO IMMUNITY FROM LIABILITY FOR PUBLIC SCHOOLS AND COLLEGES IF AN ADMINISTRATOR FAILS TO REPORT CHILD ABUSE OR NEGLECT IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 63‑7‑310; TO AMEND SECTION 63‑7‑310, AS AMENDED, RELATING TO PERSONS REQUIRED TO REPORT CHILD ABUSE OR NEGLECT, SO AS TO ADD SCHOOL AND COLLEGE ADMINISTRATORS, COACHES, FIREFIGHTERS, CAMP COUNSELORS, SCOUT LEADERS, AND OTHER PERSONS WHO HAVE DIRECT CONTACT WITH OR SUPERVISE CHILDREN AS MANDATED REPORTERS, TO REQUIRE REPORTING WHEN MANDATED REPORTERS ARE ACTING IN A VOLUNTEER CAPACITY, AND TO REQUIRE MANDATED REPORTERS TO COMPLY INDIVIDUALLY WITH THE STATUTORY REPORTING REQUIREMENTS REGARDLESS OF EMPLOYER INTERNAL REPORTING PROTOCOLS; TO AMEND SECTION 63‑7‑360, RELATING TO MANDATORY REPORTING TO CORONERS, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 63‑7‑410, RELATING TO PENALTIES FOR THE FAILURE TO REPORT CHILD ABUSE OR NEGLECT, SO AS TO INCREASE THE PENALTIES TO FIVE THOUSAND DOLLARS OR ONE YEAR IMPRISONMENT, OR BOTH; AND TO AMEND SECTION 63‑7‑450, RELATING TO INFORMATION THAT MUST BE PROVIDED BY THE DEPARTMENT OF SOCIAL SERVICES TO MANDATED REPORTERS, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Subarticle 1, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Section 63‑7‑415. Notwithstanding the provisions of the Tort Claims Act or any other provision of law, the failure of a school or college administrator, who is considered a government employee, to report an incident of child abuse or neglect as required by Section 63‑7‑310 eliminates the limitation of liability and immunity from suit under the Tort Claims Act of the governmental entity by which he is employed.”

SECTION 2. Section 63‑7‑310 of the 1976 Code, as last amended by Act 227 of 2010, is further amended to read:

“Section 63‑7‑310. (A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner’s or coroner’s office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy, including a Christian Science Practitioner or religious healer, school or college administrator, coach, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, firefighter, camp counselor, scout leader, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, and any other person whose duties require direct contact or supervision of children must report in accordance with this section when in the person’s professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63‑7‑20.

(B) If a person required to report pursuant to subsection (A) has received information in the person’s professional or volunteer capacity which gives the person reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child’s welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child’s welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) ~~Except as provided in subsection (A), a person, including, but not limited to, a volunteer non‑attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section~~ A person in subsection (A) or (B) who reports child abuse or neglect to a supervisor or person in charge of an institution, school, facility, or agency is not relieved of the individual duty to report in accordance with this section. The duty to report is not superseded by an internal investigation within the institution, school, facility, or agency.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.”

SECTION 3. Section 63‑7‑360 of the 1976 Code is amended to read:

“Section 63‑7‑360. A person required under Section 63‑7‑310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. ~~Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner.~~ The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, circuit solicitor’s office, the county department of social services and, if the institution making a report is a hospital, to the hospital.”

SECTION 4. Section 63‑7‑410 of the 1976 Code is amended to read:

“Section 63‑7‑410. A person required to report a case of child abuse or neglect or a person required to perform any other function under this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five ~~hundred~~ thousand dollars or imprisoned not more than ~~six months~~ one year, or both.”

SECTION 5. Section 63‑7‑450(A) of the 1976 Code is amended to read:

“(A) The Department of Social Services Protective Services shall inform all persons required to report ~~under this subarticle~~ pursuant to Section 63‑7‑310(A) of the nature, problem, and extent of child abuse and neglect and of their duties and responsibilities in accordance with this article. The department also, on a continuing basis, shall conduct training programs for department staff and appropriate training for persons required to report ~~under this subarticle~~ pursuant to Section 63‑7‑310(A).”

SECTION 6. This act takes effect upon approval by the Governor.

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