**South Carolina General Assembly**

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**S. 1136**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Allen

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Introduced in the Senate on March 22, 2018

Currently residing in the Senate Committee on **Education**

Summary: Principals; provide after consultation with qualified person

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/22/2018 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h:\sj\20180322.docx))

3/22/2018 Senate Referred to Committee on **Education** ([Senate Journal‑page 4](file:///h:\sj\20180322.docx))

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**VERSIONS OF THIS BILL**

[3/22/2018](file:///p:\pprever\2017-18\1136_20180322.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 15 TO CHAPTER 63, TITLE 59 SO AS TO ALLOW PRINCIPALS OR SENIOR ADMINISTRATORS, AFTER CONSULTING WITH A SCHOOL COUNSELOR, RESOURCE OFFICER, OR SAFETY OFFICER, AND AFTER PROVIDING PARENTAL NOTIFICATION, TO PETITION THE PROBATE COURT TO DETERMINE WHETHER A STUDENT IS IN NEED OF MENTAL HEALTH SERVICES IF, IN THE PRINCIPAL’S OR SENIOR ADMINISTRATION’S OPINION, THE STUDENT POSES A THREAT OF HARM TO HIMSELF OR OTHERS, TO PROVIDE EXCEPTIONS TO THE REQUIREMENT TO NOTIFY A PARENT OR LEGAL GUARDIAN, TO PROVIDE IMMUNITY FROM SUIT FOR CERTAIN SCHOOL OFFICIALS, AND TO REQUIRE LOCAL SCHOOL DISTRICTS TO ESTABLISH CERTAIN POLICIES AND GUIDELINES; TO AMEND SECTION 44‑24‑90, RELATING TO JUDICIAL ADMISSIONS OF CHILDREN IN NEED OF SERVICES, SO AS TO MAKE CONFORMING CHANGES; AND TO AMEND SECTION 44‑24‑140, RELATING TO DETERMINATIONS OF A PETITION FOR THE JUDICIAL ADMISSION OF A CHILD IN NEED OF SERVICES, SO AS TO REQUIRE THE COURT TO REPORT INFORMATION ABOUT THE CHILD TO SLED FOR TRANSMITTING TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) IN CERTAIN CIRCUMSTANCES AND TO PROVIDE A CHILD WHOSE NAME HAS BEEN TRANSMITTED TO NICS THE RIGHT TO PETITION A COURT TO REMOVE THE PROHIBITIONS PLACED INVOLVING THE RIGHT TO POSSESS OR HAVE ACCESS TO FIREARMS.

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

SECTION 1. Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Article 15

Mental Health Intervention

Section 59‑63‑1510. (A) A principal or senior administrator shall file a petition pursuant to Section 44-24-90 as an interested person regarding a student whom the principal or senior administrator in good faith believes is a child in need of treatment that requires judicial admission due to behavior dangerous to himself or others and is in need of a mental health examination to determine appropriate mental health treatment only after:

(1) consulting with a school counselor, school resource officer, or school safety officer who agrees that the student poses a threat of harm to himself or others and is in need of a mental health examination to determine appropriate mental health treatment; provided, the school counselor, school resource officer, or school safety officer must meet personally with the student about the dangerous behavior before agreeing that the behavior poses a threat of harm to the student or others; and

(2) contacting a parent or legal guardian of the student to discuss the dangerous behavior and the opinion that the student is in need of a mental health examination and mental health treatment in order to determine whether the parent or legal guardian agrees to immediately present the student to a medical professional for a mental health examination and appropriate mental health treatment, and determining that the parent or legal guardian refuses or fails to facilitate a timely mental health intervention process or that the school’s efforts to contact the parent or legal guardian are unsuccessful. However, the requirement to contact the student’s parent or legal guardian does not apply if the principal or senior administrator and the school counselor, school resource officer, or school safety officer have a reasonable belief that the dangerous behavior poses an imminent threat of harm to others, including if the student brings a firearm or ammunition on school grounds or to a school-sponsored event, the student threatens physical harm against other students, teachers, or school staff, or previous attempts to contact a parent or legal guardian of the student to seek mental health intervention for the student have been unsuccessful.

(B) A principal, senior administrator, school counselor, school resource officer, or school safety officer shall take into consideration information provided by teachers or other school staff, law enforcement, other students, a parent or legal guardian of the student, or any other person who provides credible information relevant to the student’s behavior when deciding whether the student poses a threat of harm to himself or others, the degree of seriousness of the threat to others, and the appropriateness of petitioning the court pursuant to Section 44-24-90.

(C) Local school districts, in collaboration with the Board of Education, shall establish policies, guidelines, and protocol addressing, at a minimum, indicators of student behavior that poses a threat of harm to the student or others and the process for complying with the provisions of this section.

(D) For purposes of this section, ‘child in need of treatment’ and ‘judicial admission’ have the same meanings as defined and used in Chapter 24, Title 44.

Section 59‑63‑1520. (A) A principal or senior administrator is immune from a cause of action for damages arising from the failure to petition a court pursuant to Chapter 24, Title 44, unless the principal or senior administrator fails to petition the court after deciding that the student poses a threat of harm to himself or others in accordance with Section 59‑63‑1510.

(B) A school counselor, school resource officer, or school safety officer is immune from a cause of action for damages arising from the failure of the school’s principal or senor administrator to petition the court pursuant to Chapter 24, Title 44, unless the counselor or officer fails to meet with the student before deciding that the student does not pose a threat of harm to himself or others, as required in Section 59‑63‑1510, or the counselor or officer, after meeting with the student and concluding that the student poses a threat to himself or others, does not notify the principal or other senior administrator of the conclusion, as required by Section 59‑63‑1510.”

SECTION 2. Section 44‑24‑90(B) of the 1976 Code is amended to read:

“(B)(1) The petition may be accompanied by a certificate of an examiner stating that he has examined the child and is of the opinion the child is a child in need of treatment. The certificate or written statement must contain the underlying facts upon which the examiner or petitioner bases his conclusions.

(2) If the petition is filed by a principal or senior administrator of a school pursuant to Section 59‑63‑1510, the petition must be accompanied by:

(a) a written statement from the principal or senior administrator that:

(i) there is reason to believe that the child poses a threat of harm to himself or others; and

(ii) the parent or legal guardian has refused or failed to initiate mental health intervention for the student after being contacted by the school about the dangerous behavior, the principal or senior administrator has been unable to make contact with a parent or legal guardian, or the dangerous behavior poses an imminent threat of harm to others; and

(b) the underlying facts on which the principal or senior administrator, in consultation with the school counselor, school resource officer, or school safety officer, bases the conclusion that the child poses a threat of harm to himself or others, the degree of seriousness of the threat to others, and the basis of the principal’s or senior administrator’s opinion that the treatment may be obtained only through involuntary admission.”

SECTION 3. Section 44‑24‑140(B) of the 1976 Code is amended to read:

“(B) If upon completion of the hearing and consideration of the record the court finds upon clear and convincing evidence that the child is in need of judicial admission, the court may order treatment in the department or at another program or facility that agrees to accept the child. Within ten days of the court determining that a child is in need of judicial admission pursuant to this section, the court shall report the name and other identifying information of the child to SLED, which must upon receipt transmit the information to the National Instant Criminal Background Check System in accordance with Article 10, Chapter 31, Title 23. A child who is determined to be in need of judicial admission pursuant to this section is considered to have been adjudicated as a mental defective for purposes of Article 10, Chapter 31, Title 23, and is entitled to all rights and privileges provided in that article, including the right to petition the court pursuant to Section 23‑31‑1030 to remove any prohibitions relating to access, possession, or transport of firearms or ammunition ordered by the court pursuant to Section 23‑31‑1040.”

SECTION 4. This act takes effect upon approval by the Governor.

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