South Carolina General Assembly
124th Session, 2021-2022

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S. 53

STATUS INFORMATION

General Bill
Sponsors: Senators Malloy and Shealy
Document Path: l:\s-jud\bills\malloy\jud0009.rem.docx

Introduced in the Senate on January 12, 2021
Currently residing in the Senate

Summary: SC Juvenile Justice Reform Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/9/2020	Senate	Prefiled
12/9/2020	Senate	Referred to Committee on **Judiciary**
1/12/2021	Senate	Introduced and read first time (Senate Journal-page 141)
1/12/2021	Senate	Referred to Committee on **Judiciary** (Senate Journal-page 141)
3/22/2022	Senate	Referred to Subcommittee: Malloy (ch), McLeod, Senn, Adams, Garrett
3/30/2022	Senate	Committee report: Favorable with amendment **Judiciary** (Senate Journal-page 8)

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VERSIONS OF THIS BILL

12/9/2020
3/30/2022

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

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COMMITTEE REPORT

March 30, 2022

S. 53

Introduced by Senators Malloy and Shealy

S. Printed 3/30/22--S.

Read the first time January 12, 2021.

THE COMMITTEE ON JUDICIARY

To whom was referred a Bill (S. 53) to amend the South Carolina Code of Laws, 1976, to enact the "South Carolina Juvenile Justice Reform Act", to amend Section 63-1-20, relating to, 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 words and inserting:

/ SECTION 1. This act may be referred to as the "South Carolina Juvenile Justice Reform Act".

SECTION 2. Section 63-1-20 of the 1976 Code is amended to read:

"Section 63-1-20. (A) A children's policy is hereby established for this State.

(B) This policy shall be interpreted in conjunction with all relevant laws and regulations and shall apply to all children who have need of services including, but not limited to, those mentally, socially, emotionally, physically, developmentally, culturally, educationally or economically disadvantaged or handicapped, those dependent, neglected, abused or exploited and those who by their circumstance or action violate the laws of this State and are found to be in need of treatment or rehabilitation.

(C) It shall be the policy of this State to concentrate on the prevention of children's problems as the most important strategy which can be planned and implemented on behalf of children and their families. The State shall encourage community involvement in the provision of children's services including, as an integral part, local government, public and private voluntary groups, public and private nonprofit groups and private-for-profit groups in order to encourage and provide innovative strategies for children's services. To maximize resources in providing services to children in need, all agencies providing services to children shall develop methods to coordinate their services and resources. For children with multiple needs, the furtherance of this policy requires all children's services agencies to recognize that their jurisdiction in meeting these children's needs is not mutually exclusive.

(D) When children or their families request help, state and local government resources shall be utilized to compliment community efforts to help meet the needs of children by aiding in the prevention and resolution of their problems. The State shall direct its efforts first to strengthen and encourage family life as the most appropriate environment for the care and nurturing of children. To this end, the State shall assist and encourage families to utilize all available resources. For children in need of services, care and guidance the State shall secure those services as are needed to serve the emotional, mental and physical welfare of children and the best interests of the community, preferably in their homes or the least restrictive environment possible. When children must be placed in care away from their homes, the State shall ~~insure~~ ensure that they are protected against any harmful effects resulting from the temporary or permanent inability of parents to provide care and protection for their children. It is the policy of this State to reunite the child with his family in a timely manner, whether or not the child has been placed in the care of the State voluntarily. When children must be permanently removed from their homes, they shall be placed in adoptive homes so that they may become members of a family by legal adoption or, absent that possibility, other permanent settings.

(E) It shall be the policy of this State that the primary goal of the juvenile justice system is to provide for any child who comes within the jurisdiction of the family court with the care and guidance as will secure his or her physical, emotional, moral, and mental well-being as well as to provide for the safety and security of the child and the community as a whole. It is the intent of the General Assembly to promote a system that will impose accountability for violations of the law, while also providing the treatment, rehabilitation, and education that will equip our children with the ability to live responsible and productive lives, preferably in the child's own home. These policies seek to guarantee due process of law in every proceeding, through which all interested parties are assured fair hearings at which legal rights are recognized and enforced. Above all, this chapter shall be liberally construed to reflect that the paramount juvenile justice policy of this state is to ensure the best interests of children who fall within the family court's jurisdiction.

To accomplish these goals, juvenile justice policies shall be designed and construed to recognize that the ultimate solutions to juvenile crime must be family-based and community-centered. The policy implementation must protect the public safety and support the strengthening of families and educational institutions. Policies must facilitate efficient and effective cooperation, coordination and collaboration among agencies of the local, state and federal government; be outcome-based, allowing for the effective and accurate assessment of program performance; and encourage public and private partnerships to address community risk factors.

The General Assembly also recognizes that placing children in state custody is associated with higher rates of repeat offenses and negative outcomes for the child. It is, therefore, the intent of the General Assembly to preserve and strengthen family relationships, countenancing the removal of a child from his or her home only when it is essential to protect the child. Whenever the court places children in state custody or requires children to participate in community-based interventions, every effort shall be made to ensure these removals or interventions are supported by researched evidence and are mindful of and influenced by research into the effects of trauma, mental health disorders, and other factors on children's development and rehabilitation.

~~(E)~~(F) The children's policy provided for in this chapter shall be implemented through the cooperative efforts of state, county and municipal legislative, judicial and executive branches, as well as other public and private resources. Where resources are limited, services shall be targeted to those children in greatest need.

~~(F)~~(G) In order to carry out this policy each agency, department, institution, committee, and commission which is concerned or responsible for children shall submit as a part of its annual budget request a listing of programs and services for children, the priority order of these programs and services in relation to other services, if any, that are provided by the agency, department, institution, committee, or commission, and a summary of the expenses incurred for the administration of its children's services and programs. In addition, each agency, department, institution, committee, and commission which must submit pursuant to law an annual report to the General Assembly shall include as part of the report a comprehensive statement of how its children's services and programs contributed to the implementation of this policy. Copies of all these budget requests and annual reports must be provided to the Office of the Governor by the agency, department, institution, committee, or commission."

SECTION 3. Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Article 6

Juvenile Offender Civil Citations

Section 63-19-700. Each circuit solicitor may establish a juvenile offender civil citation program to provide a civil alternative to criminal prosecution for eligible children who have committed acts of delinquency as set forth in this article. The Juvenile Offender Civil Citation Program shall be coordinated by a statewide civil citation coordinator within the Department of Juvenile Justice and shall include assessment and intervention services that a child voluntarily agrees to complete in lieu of formal custody and prosecution.

Section 63-19-710. A law enforcement officer having probable cause to believe that a child has committed or attempted to commit an eligible offense of delinquency may refer an eligible child to the Juvenile Offender Civil Citation Program through the issuance of a civil citation. The issuance of a civil citation shall be at the discretion of the law enforcement officer and limited to qualified child offenders. Participation in the Juvenile Offender Civil Citation Program is voluntary on the part of the child offender. Referral to the Juvenile Offender Civil Citation Program shall be made with the consent of the victim if one exists, however, ultimate discretion to admit the child remains with the solicitor's office. The parent or guardian of the child may refuse the child's participation at any time.

Section 63-19-720. (A) A child is eligible to participate in a civil citation program only if he is alleged to have committed an eligible offense. An allegation of the commission of an ineligible offense in addition to an eligible offense precludes participation in the program. An eligible offense includes all alleged offenses except:

(1) any violent offense as defined by Section 16-1-60;

(2) any offense that may be classified as an A, B, C, or D felony; and

(3) any offense involving allegations of harassment or stalking, involving a firearm, or of failure to stop for a blue light.

(B) For the purposes of this article, an 'eligible child offender' means a child who meets both of the following:

(1) no prior adjudication of delinquency, and

(2) no prior referral to the Juvenile Offender Civil Citation Program or any other diversion program unless more than one year has elapsed since the first referral and the prior referral was for a different offense.

(C) A law enforcement officer who chooses not to refer an otherwise eligible child to a civil citation program must provide the reason or reasons for the lack of the referral on a report provided to the program administrator within ten business days from the date the child was taken into custody. The officer must provide the justifications with reasonable specificity for each instance.

Section 63-19-730. (A) A civil citation provided to the child shall include a description of the offense alleged to have been committed; contact information for the designated civil citation program; notification that the child must contact the identified civil citation program within seven business days to schedule their intake and initial assessment; and a warning that failure to contact and to participate with the identified civil citation program may result in the child's detention and the commencement of delinquency proceedings as otherwise provided in this chapter.

(B) At the time of issuance of a civil citation by the law enforcement officer, the law enforcement officer shall advise the child that the child has the option to refuse the civil citation and instead be taken into custody and be subject to the jurisdiction of the family court and prosecution as otherwise provided in this chapter. Upon issuance of a civil citation, the law enforcement officer shall submit the civil citation to the appropriate juvenile civil citation program administrator.

(C) A child issued a civil citation shall contact the identified civil citation program office within seven business days or as otherwise directed in the civil citation and thereafter report to the identified program office to which the child is referred.

(D) Program administrators shall assess referred children using an approved risk assessment tool and may recommend the child to participate in counseling, treatment, community service, or other interventions appropriate to the needs of the child as identified by the assessment.

(E) Upon successful completion of all terms and conditions of the Juvenile Offender Civil Citation Program, the child shall be discharged without detention.

(F) If the child fails to comply with any requirements of the Juvenile Offender Civil Citation Program, including any assessments or required services, or otherwise violates any terms or conditions imposed by the program, the child shall be unsuccessfully discharged from the Juvenile Offender Civil Citation Program. The civil citation program administrator shall serve notice upon on the child to appear before the family court and shall advise the referring law enforcement officer of a child's unsuccessful termination from the program. If the child is not able to be served by the program administrators, the officer, upon receiving notice that the child to whom they have issued a civil citation has been unsuccessfully discharged from the Juvenile Offender Civil Citation Program, shall be authorized to take the child into custody or serve notice to appear before the family court and to commence delinquency proceedings as otherwise provided in this chapter.

(G) The solicitor's office and program administrators may not impose a fee for participation in the program.

(H) Participation in the Juvenile Offender Civil Citation Program shall not, with respect to a subsequent detention, serve to disqualify or otherwise preclude a child from participating in any diversion program at the discretion of the circuit solicitor.

Section 63-19-740. Final discretion regarding the eligibility of program participants remains with the program administrators who may waive the requirements of victim consent or for the failure to contact the office within the required time periods if it is in the best interest of the child to do so.

Section 63-19-750. The Department of Juvenile Justice shall maintain a database of program participants for the purpose of identifying eligibility and overall program statistics. Specific information pertaining to each participant is confidential and not subject to disclosure under the Freedom of Information Act unless otherwise provided for by law. Any necessary information shall be disclosed to law enforcement, civil citation program offices, circuit solicitor's offices, or the Attorney General's office for the purposes of establishing eligibility of participants, or may be disclosed by court order. The results of the offender's participation in the program shall be disclosed to the victim of the offense if one exists. Generalized program statistics, data, and information that do not identify a specific program participant are not considered confidential under this subsection."

SECTION 4. Section 16-17-425 of the 1976 Code is amended to read:

"Section 16-17-425. (A) It is unlawful for a student of a school or college in this State to make threats to ~~take the life of or to inflict bodily harm upon another~~ commit an act of mass violence at a school, college, or school- or college-sponsored activity by using any form of communication whatsoever. As used in this section, 'an act of mass violence' means an act that a reasonable person would conclude could lead to serious bodily injury or death to two or more people.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year, or both.

(C) Nothing contained in this section may be construed to repeal, replace, or preclude application of any other criminal statute."

SECTION 5. Section 16-23-430 of the 1976 Code is amended to read:

"Section 16-23-430. (A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a ~~blackjack, a metal pipe or pole, firearms~~ firearm, or any other type of weapon, device, or object ~~which may be used~~ with the intent by the person to inflict serious bodily injury or death.

(B) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property a weapon, device, or object with the intent to inflict bodily injury.

(C) This section does not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

~~(C)~~(D) A person who violates the provisions of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. A person who violates the provisions of subsection (B) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both. Subsection (B) is a lesser-included offense of subsection (A). Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest."

SECTION 6. Section 63-3-520 of the 1976 Code is amended to read:

"Section 63-3-520.(A) The magistrate courts and municipal courts of this State have concurrent jurisdiction with the family courts for the trial of persons under ~~seventeen~~ eighteen years of age charged with traffic violations or violations of the provisions of Title 50 relating to fish, game, and watercraft when these courts would have jurisdiction of the offense charged if committed by an adult.

(B) The family court shall report to the Department of Motor Vehicles all adjudications of a child for moving traffic violations and other violations that affect the child's privilege to operate a motor vehicle including, but not limited to, controlled substance and alcohol violations as required by other courts of this State pursuant to Section 56-1-330 and shall report to the Department of Natural Resources adjudications of the provisions of Title 50."

SECTION 7. Section 63-7-310 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) A person required to report pursuant to subsection (A) or (B) is not required to report when employed by a lawyer who is providing representation in a criminal, delinquency, civil, or family law matter, and the basis for the suspicion arises in the course of that representation."

SECTION 8. Chapter 19, Title 63 of the 1976 Code is amended by adding:

"ARTICLE 2

Children's Bill of Rights

Section 63-19-100. A child in the care and custody of a state, county, municipal or regional institutional facility for the detention of children or for the treatment and rehabilitation of children within this State has the right:

(1) to be treated with basic human dignity and respect, without intentional infliction of humiliation;

(2) to have fair and equal access to services, placement, care, treatment, and benefits;

(3) to a program of education that meets the requirements of law and is appropriate for the developmental maturity of the child;

(4) to receive adequate, healthy, and appropriate food;

(5) to receive adequate, appropriate and accessible basic necessities, including, without limitation, shelter, clean clothing, and personal hygiene products and facilities;

(6) to have access to necessary medical and behavioral health care services, including, without limitation:

(a) dental, vision, and mental health services,

(b) medical and psychological screening, assessment and testing, and

(c) referral to, and receipt of, medical, emotional, psychological or psychiatric evaluation and treatment as soon as practicable after the need for such services has been identified;

(7) to be free from:

(a) abuse or neglect, as defined in Section 63-7-20(6),

(b) corporal punishment, except the reasonable use of force that is necessary to preserve the order, security or safety of the child, the public, the staff of the facility or other children who are detained in the facility,

(c) discrimination or harassment on the basis of his or her actual or perceived race, ethnicity, ancestry, national origin, color, religion, sex, sexual orientation, gender identity or expression, mental or physical disability, or exposure to any communicable disease,

(d) the deprivation of food, sleep, exercise, education, pillows, blankets, or personal hygiene products as a form of punishment or discipline,

(e) searches for the purpose of harassment or as a form of punishment or discipline, or

(f) restrictions from a daily shower, clean clothing, drinking water, a toilet, or reading materials relating to the education as a form of punishment or discipline;

(8) to have reasonable access and accommodations to participate in religious services of his or her choice when reasonably available on the premises of the facility or to refuse to participate in religious services;

(9) to communicate with other persons, including, without limitation, the right:

(a) to have regular contact through visits, telephone calls and mail with:

(i) parents,

(ii) guardians,

(iii) siblings,

(iv) biological or adoptive children,

(v) attorneys, and

(vi) other adults with whom the child has established a familial or mentoring relationship, including, without limitation, clergy, caseworkers, teachers, mentors and other persons, upon approval of the facility;

(b) to communicate confidentially with:

(i) any agency which provides child welfare services to the child concerning his or her care,

(ii) attorneys, legal services organizations, and their employees or staff,

(iii) ombudspersons and other advocates,

(iv) members of the clergy, and

(v) holders of public office, and people who work at a state or federal court;

Except as otherwise provided by specific statute, a communication made pursuant to this subsection is not a privileged communication.

(c) to report any alleged violation of his or her rights pursuant to Section 63-19-130 without being threatened or punished; and

(10) to receive information concerning his or her rights set forth in this title.

Section 63-19-110. A detention facility shall:

(1) inform the child of his or her rights as set forth in Section 63-19-100;

(2) provide the child with a written copy of those rights;

(3) provide an additional written copy of those rights to the child upon request;

(4) to the extent that it is practicable, provide a written copy of those rights to the parent or guardian of the child; and

(5) post a written copy of the rights set forth in Section 63-19-100 in a conspicuous place inside the facility.

Section 63-19-120. An institutional facility may impose reasonable restrictions on the time, place, and manner in which a child may exercise his or her rights set forth in Section 63-19-100 if such restrictions are necessary to preserve the order, security or safety of the child, the public, the staff of the facility, or other children who are held in the facility.

Section 63-19-130. If a child believes that any of his or her rights set forth in Section 63-19-100 have been violated, the child may raise and redress a grievance through, without limitation:

(A) a member of the staff of the facility,

(B) a probation officer or parole officer,

(C) an agency which provides child welfare services to the child, and any employee thereof,

(D) a juvenile court with jurisdiction over the child,

(E) a guardian ad litem for the child,

(F) an attorney for the child, or

(G) the Department of Children's Advocacy."

SECTION 9. Section 63-19-340 of the 1976 Code is amended to read:

"Section 63-19-340. An annual report of the department must be prepared by the director which shall include an account of all funds received and expended, persons served by the department including a report of the state and condition of the correctional institutions, and community programs operated by the department. The annual report must include:

(1) the total number of

(a) offenses referred to the Department;

(b) the top ten most frequent offenses referred to the Department;

(c) status offenses referred to the Department;

(d) probation violation or contempt of court charges referred to the Department following one or more adjudications for a status offense;

(e) misdemeanor referrals;

(f) probation violation or contempt of court charges referred to the Department following an adjudication for one or more misdemeanors;

(g) non-violent felony referrals;

(h) probation violation or contempt of court charges referred to the Department following an adjudication for one or more non-violent felonies;

(i) violent offenses as defined in Section 16-1-60; and

(j) probation violation or contempt of court charges referred to the Department following an adjudication for one or more violent offenses as defined in Section 16-1-60; and

(2) the number of cases in each category listed in subitems (1)(c) through (1)(j) associated with the following outcomes:

(a) cases which are dismissed or diverted;

(b) cases in which a child is detained pre-trial, separately counting children detained in the Department's custody and children detained in a facility operated by another state or local government entity;

(c) adjudications after which a child is placed on probation;

(d) adjudications after which a child is ordered to undergo a community evaluation;

(e) adjudications after which a child is committed to the Department's custody for a residential evaluation;

(f) adjudications after which a child is committed to the Department for a determinate sentence;

(g) adjudications after which the Department places a child in an alternative placement; and

(h) adjudications after which the child is committed to the Department for an indeterminate period of time;

(3) the Department must also provide the totals of each category specified in subsections (1) and (2) broken down by the sex and race of the child; and

(4) the number of individual children placed in corrective room restriction while in the Department's custody, the number of corrective room restrictions imposed (including multiple restrictions placed on an individual child), the average and median length of time children were placed in corrective room restriction, and the number of corrective room restrictions which lasted for seventy-two consecutive hours or more."

SECTION 10. Section 63-19-350 of the 1976 Code is amended by adding an appropriately numbered new subsection to read:

"( ) developing and utilizing structured decision-making tools at all key points in the juvenile justice process, to include detention, diversion, disposition, and release from commitment."

SECTION 11. Section 63-19-360(3) of the 1976 Code is amended to read:

"(3) establishing and maintaining residential and nonresidential reception and evaluation centers at which all children committed to its custody by a circuit or family court must be received, examined, and evaluated before assignment to one of its institutions or before other disposition or recommendation is made concerning the child. The commitment of a child to a reception and evaluation center or youth ~~correctional~~ rehabilitative institution of the department may be made only after the child has been adjudicated delinquent. The evaluation conducted by the reception and evaluation centers includes, but is not limited to:

(a) a ~~complete~~ comprehensive, individualized biopsychosocial assessment to include an examination of the child's social, physical, ~~psychological,~~ and mental health functioning ~~examination~~;

(b) an investigation and consideration of family and community environment and other facts in the background of the person concerned that might relate to the person's delinquency;

(c) a determination of the ~~correctional~~ rehabilitative or custodial care that would be most appropriate. The department shall create facilities and employ personnel ~~as will~~ that enable the centers to conduct the necessary ~~physical, mental, and psychological~~ examinations and assessments required by this section;"

SECTION 12. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-365. (A) As used in this section, 'isolation' means the placement of a child alone in a cell, room, or other area where the child is unable to leave, excluding during sleeping hours for a child housed in his/her own room.

(B) No child shall at any time be held in isolation for purposes of discipline, punishment, retaliation, or any reason other than as a response to behavior that poses a serious and immediate danger to self or others.

(C) A child who is held in a state, county, municipal or regional institutional facility for the detention of children or for the treatment and rehabilitation of children may be subjected to isolation only if the child poses a serious and immediate danger to self or others and staff has made reasonable efforts to attempt and exhaust de-escalation strategies.

(D) A child must only be subjected to isolation for the minimum time required to address the unsafe behavior and the child must be returned to the general population or other appropriate living unit of the facility as soon as reasonably possible.

(E) Any action that results in isolation for more than two hours must be documented in writing. A child must not remain in isolation for longer than four hours, except when approved by a supervisor.

(F) The facility shall conduct a safety and well-being check on a child subjected to isolation at least once every ten minutes while the child is subjected to isolation.

(G) A child who is subjected to isolation for more than twenty-four hours must be provided:

(1) not less than one hour of out-of-room, large-muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(2) access to the same meals and medical and mental health treatment, the same or equivalent access to contact with parents or legal guardians, and the same or equivalent access to legal assistance and educational services as is provided to children in the general population of the facility; and

(3) a review of the isolation status at least once every twenty-four hours. If, upon review, the isolation is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less restrictive option is available.

(H) Each county, municipal, regional, or state institutional facility for the detention of children or for the treatment and rehabilitation of children shall report monthly to the Department of Children's Advocacy the number of children who were subjected to isolation during that month and the length of time that each child was in isolation. Any incident that resulted in the use of isolation for more than seventy-two consecutive hours must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful."

SECTION 13. Section 63-19-370 of the 1976 Code is amended to read:

"Section 63-19-370. The department may enter into agreements with the governing bodies of other state departments or institutions for the purpose of effecting a more efficient and economical management of any institution or program under its supervision. The department is authorized to make contracts and expend public funds as required to carry out the functions prescribed for it in this chapter within the limits of appropriated funds.

The department may establish agreements with the Department of Education, the Department of Mental Health, individual school districts, private providers, and other state and local departments specific to reentry services for children returning to schools and communities after being in the department's custody, including, but not limited to, mental health counseling, mentoring programs, and educational support services. Programs, resources and services provided under such agreements shall be accessible to students if they are needed while under supervision by the Department and for a reasonable time after supervision has concluded.

All revenues generated from United States Department of Agriculture grants, the Education Finance Act, the Detention Center, and Medicaid federal funding may be retained, carried forward, and expended by the Department of Juvenile Justice, in accordance with applicable regulations, for the costs associated with related programs."

SECTION 14. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-500. (A) At least one pre-detention intervention program shall be established in each judicial circuit in the state to provide services to children in all counties in that circuit for the purpose of offering an alternative to referral to the juvenile justice system for children who commit first-time, non-violent as defined in Section 16-1-70, delinquent acts. Each program shall be available to serve all eligible children in each county in that circuit, and no child shall be required to pay program fees. These programs must divert eligible children from initial contact with the juvenile justice system using approaches that are evidence-based, culturally relevant, trauma-informed, developmentally appropriate, and that promote long-term success for children.

(B) The department shall develop a plan for the establishment, implementation, and oversight of pre-detention diversion programs around the state to which all first-time, non-violent offenders must be referred. The department shall provide competitively awarded funding to at least one such program in each judicial circuit to supplement other funding received by the program. Programs receiving funding from the department must adhere to the standards and procedures for such programs developed by the department, which must include requirements for applicants, organizational characteristics, reporting and auditing criteria, and such other standards for eligibility and accountability, and funding shall be based on the number of children served and such other requirements as may be established by the department. Pre-detention diversion programs may incorporate some or all of the following: educational services, including academic and vocational services; mentoring services; mental health services; and behavioral health services.

(C) A law enforcement officer who takes a child into custody for a non-violent offense as defined in Section 16-1-70 shall utilize a database system provided by the department to review the child's criminal history with the juvenile justice system. If the child has no prior referral to the department, the law enforcement officer must refer the child to the local pre-detention diversion program for that circuit utilizing a referral form provided by the department, and must provide a copy of the referral form to the child's parent or guardian, the department, and the entity designated to run the pre-detention diversion program.

(D) If a referral to the juvenile justice system is received for a first-time non-violent offender, the referral shall not be accepted and shall be returned to the referral source with instructions to refer the child to the entity designated to run the pre-detention diversion program in that respective circuit.

(E) All records of a child's referral to and participation in a pre-detention diversion program must be kept separate from records of children referred to the juvenile justice system. A referral to a pre-detention diversion program is not a referral to the juvenile justice system, and accordingly, must not be reflected on a child's criminal history.

(F) Each pre-detention diversion program shall submit data to the department on at least an annual basis which identifies for each child participating in the diversion program:

(1) the race, ethnicity, gender, and age of that child;

(2) the alleged offense committed, including the statute number of the offense;

(3) the county in which the offense was committed and the law enforcement agency that had contact with the child for the offense; and

(4) other information as specified by the department."

SECTION 15. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-520. (A) There is hereby established in the department's budget the Juvenile Justice Improvement Fund. All expenditures from the Juvenile Justice Improvement Fund shall be for the development, implementation, or monitoring of community-based diversion or intervention programs, practices, and services for children and their families that reduce youth risk factors and/or rates of recidivism. The Department shall at least annually transfer into the Juvenile Justice Improvement Fund available state general recurring funds identified as savings as a result of decreased reliance on out-of-home placement of youth.

(B) The department shall create a plan to incentivize the development of a continuum of evidence-based community intervention programs and services for children under supervision of the department. These programs and services shall serve to divert children from further involvement with the juvenile justice system. Intervention programs may incorporate some or all of the following: educational services, including academic and vocational services; mentoring services; mental health services; and behavioral health services. Funding prioritization shall be given to community-based intervention programs that provide services to counties that demonstrate a high rate of out-of-home placement of children and that have few existing community-based alternatives.

(C) The department may contract with a service coordination agency or agencies to assist the department with building a continuum of community-based services for children and families across the state. Among other services, a service coordination agency may provide referral processing, billing, reporting, monitoring of the quality of direct service providers, monitoring of evidence-based programs for fidelity, completion of on-going service gaps analyses, filling of service gaps, assessment of existing treatment capacity, development of new treatment capacity, and selection of and subcontracting with direct service providers."

SECTION 16. Section 63-19-820 of the 1976 Code is amended to read:

"Section 63-19-820. (A) When the officer who took the child into custody determines that placement of a ~~juvenile~~ child outside the home is necessary, the authorized representative of the Department of Juvenile Justice shall make a diligent effort to place the child in an approved home, program, or facility, other than a secure juvenile detention facility, when these alternatives are appropriate and available.

(B) Pre-trial detention is authorized only when that is the least restrictive appropriate option available to prevent an unreasonable flight or public safety risk, taking into account the overall rehabilitative purposes of the juvenile justice system, the likely harm to children and to public safety from unnecessary detention, and the child's presumption of innocence. If a child is eligible for detention, authorities should consider what alternatives to detention, if any, would mitigate any unreasonable flight or public safety risk. A child is eligible for detention in a secure juvenile detention facility only if the child:

(1) is charged with a violent crime as defined in Section 16-1-60;

(2) is charged with a crime which, if committed by an adult, would be a felony; ~~or a misdemeanor other than a violent crime, and the child:~~

~~(a) is already detained or on probation or conditional release or is awaiting adjudication in connection with another delinquency proceeding;~~

~~(b) has a demonstrable recent record of wilful failures to appear at court proceedings;~~

~~(c) has a demonstrable recent record of violent conduct resulting in physical injury to others; or~~

~~(d) has a demonstrable recent record of adjudications for other felonies or misdemeanors; and~~

~~(i) there is reason to believe the child is a flight risk or poses a threat of serious harm to others; or~~

~~(ii) the instant offense involved the use of a firearm;~~

(3) is a fugitive from another jurisdiction;

(4) ~~requests protection in writing under circumstances that present an immediate threat of serious physical injury;~~

~~(5)~~ had in his possession a deadly weapon;

~~(6)~~(5) ~~has a demonstrable recent record of wilful failure to comply with prior placement orders including, but not limited to, a house arrest order~~ is charged with a violation of a prior court order and the violation alleges that the child was unsuccessfully discharged from a court-ordered alternative placement;

~~(7) has no suitable alternative placement~~ and it is determined that detention is ~~in the child's best interest or is~~ necessary to protect the child or public, or both; ~~or~~

~~(8) is charged with an assault and battery or an assault and battery of a high and aggravated nature on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity.~~

(6) is charged with unlawful student threats pursuant to Section 16-17-425 or failure to stop for a blue light pursuant to Section 56-5-750; or

(7) is court ordered to be detained.

~~A~~ Only a child who meets the criteria provided in this subsection is eligible for detention. Detention is not mandatory for a child meeting the criteria if that child can be supervised adequately at home or in a less secure setting or program. The use of secure detention shall be limited to a child who poses a current risk to public safety or is a current flight risk. If the officer does not consent to the release of the child, the parents or other responsible adult may apply to the family court within the circuit for an ex parte order of release of the child. The officer's written report must be furnished to the family court judge who may establish conditions for the release.

(C) A child must not be detained in secure confinement if the child could not be committed to the custody of the Department of Juvenile Justice pursuant to Section 63-19-1450. The family court shall consider any past mental health, disability services, special education or similar records provided by any of the parties to determine if that section applies. A child considered not competent to stand trial by a competency evaluator is presumed to be ineligible for detention in secure confinement.

(D) ~~No~~ A child ~~may~~ must not be placed in secure confinement or ordered detained by the court in secure confinement in an adult jail or other place of detention for adults for more than six hours. ~~However, the prohibition against the secure confinement of juveniles in adult jails does not apply to juveniles who have been waived to the court of general sessions for the purpose of standing trial as an adult. Juveniles~~ A child placed in secure confinement in an adult jail during this six-hour period must be confined in an area of the jail which is separated by sight and sound from adults similarly confined.

~~(D)~~(E) Temporary holdover facilities may hold ~~juveniles~~ children during the period between initial custody and the initial detention hearing before a family court judge for a period up to forty-eight hours, excluding weekends and state holidays.

~~(E)~~(F) A child who is taken into custody because of a violation of law which would not be a criminal offense under the laws of this State if committed by an adult or because of a violation of a court order related to a status offense must not be placed or ordered detained in an adult or a juvenile detention facility. ~~A child who is taken into custody because of a violation of the law which would not be a criminal offense under the laws of this State if committed by an adult must not be placed or ordered detained more than twenty-four hours in a juvenile detention facility, unless an order previously has been issued by the court, of which the child has notice and which notifies the child that further violation of the court's order may result in the secure detention of that child in a juvenile detention facility. If a juvenile is ordered detained for violating a valid court order, the juvenile may be held in secure confinement in a juvenile detention facility for not more than seventy-two hours, excluding weekends and holidays~~. However, nothing in this section precludes a law enforcement officer from taking a status offender into custody.

~~(F)~~(G) Children ten years of age and younger must not be incarcerated in a jail or detention facility for any reason. Children eleven or twelve years of age who ~~are taken into custody for a violation of law which would be a criminal offense under the laws of this State if committed by an adult or who violates conditions of probation for such an offense must~~ meet the eligibility criteria for detention outlined above may be incarcerated in a ~~jail or~~ juvenile detention facility only by order of the family court.

~~(G)~~(H) For purposes of this section, 'adult jail' or other place of detention for adults includes a state, county, or municipal police station, law enforcement lockup, or holding cell. 'Secure confinement' means an area having bars or other restraints designed to hold one person or a group of persons at a law enforcement location for any period of time and for any reason. Secure confinement in an adult jail or other place of detention does not include a room or a multipurpose area within the law enforcement center which is not secured by locks or other security devices. Rooms or areas of this type include lobbies, offices, and interrogation rooms. ~~Juveniles~~ Children held in these areas are considered to be in nonsecure custody as long as the room or area is not designed for or intended for use as a residential area, the ~~juvenile~~ child is not handcuffed to a stationary object while in the room or area, and the ~~juvenile~~ child is under continuous visual supervision by facility staff while in this room or area which is located within the law enforcement center. Secure confinement also does not include a room or area used by law enforcement for processing 'booking' purposes, irrespective of whether it is determined to be secure or nonsecure, as long as the ~~juvenile's~~ child's confinement in the area is limited to the time necessary to fingerprint, photograph, or otherwise 'book' the ~~juvenile~~ child in accordance with state law."

SECTION 17. Section 63-19-830(A) of the 1976 Code is amended to read:

"(A) If the officer who took the child into custody has not released the child to the custody of the child's parents or other responsible adult, the court shall hold a detention hearing within forty-eight hours from the time the child was taken into custody, excluding Saturdays, Sundays, and holidays. At this hearing, the authorized representative of the department shall submit to the court a report stating the facts surrounding the case and a recommendation as to the child's continued detention pending the adjudicatory and dispositional hearings. The court shall appoint counsel for the child if none is retained. No child may proceed without counsel in this hearing, unless the child waives the right to counsel and then only after consulting at least once with an attorney. At the conclusion of this hearing, the court shall determine whether probable cause exists to justify the detention of the child and the appropriateness of, and need for, the child's continued detention. If continued detention of a ~~juvenile~~ child is considered appropriate by the court and if a juvenile detention facility exists in that county which meets state and federal requirements for the secure detention of ~~juveniles~~ children or if that facility exists in another county with which the committing county has a contract for the secure detention of its ~~juveniles~~ children and if commitment of a ~~juvenile~~ child by the court to that facility does not cause the facility to exceed its design and operational capacity, the family court shall order the detention of the ~~juvenile~~ child in that facility. The family court may also order that the child be detained or remain detained in an approved home, program, or facility, other than a secure juvenile detention facility. A ~~juvenile~~ child must not be detained in secure confinement or in an approved home, program, or facility, other than a secure juvenile detention facility in excess of ninety days except in exceptional circumstances as determined by the court. A detained ~~juvenile~~ child is entitled to further and periodic review:

(1) within ten days following the ~~juvenile's~~ child's initial detention hearing;

(2) within thirty days following the ten-day hearing; and

(3) at any other time for good cause shown upon motion of the child, the State, or the department.

If the child does not qualify for detention or otherwise require continued detention under the terms of Section 63-19-820(A) or (B), the child must be released to a parent, guardian, or other responsible person."

SECTION 18. Section 63-19-1010 of the 1976 Code is amended to read:

"Section 63-19-1010. (A) The Department of Juvenile Justice shall provide intake and probation services for ~~juveniles~~ children brought before the family courts of this State and for persons committed or referred to the department in cooperation with all local officials or agencies concerned. The role and function of intake is to independently assess the circumstances and needs of children referred for possible prosecution in the family court. Recommendations by the department as to intake must be reviewed by the office of the solicitor in the circuit concerned, and the final determination as to whether or not the ~~juvenile~~ child is to be prosecuted in the family court must be made by the solicitor or by the solicitor's authorized assistant, consistent with subsection (C). Statements of the ~~juvenile~~ child contained in the department's files must not be furnished to the solicitor's office as part of the intake review procedure, and the solicitor's office must not be privy to these statements in connection with its intake review.

(B) Where circumstances do not warrant prosecution in the discretion of the solicitor, the intake counselor shall offer referral assistance for services as appropriate for the child and family. In the event that a ~~juvenile~~ child is adjudicated to be delinquent or found by the family court to be in violation of the terms of probation, the intake counselor shall offer appropriate dispositional recommendations to the family court for its consideration and determination of the disposition of the case.

(C)(1) A child brought before the family court or referred to the department for a status offense or an offense which would be a crime if committed by an adult shall be referred to a diversion program and not for prosecution if the following criteria are met:

(a) the child has no prior adjudications;

(b) the child has not been referred to a diversion program within the last twelve months; and

(c) the child is not referred for a violent offense as defined in Section 16-1-60.

(2) If the solicitor or solicitor's authorized assistant has good cause to believe that diversion is insufficient to meet the purposes of this chapter, the solicitor or solicitor's authorized assistant may prosecute the child in family court. The petition shall include notice of the departure from the presumption of diversion and reasons for that departure. Upon motion of the child and upon a finding that no good cause exists, the family court may refer the child for diversion."

SECTION 19. Section 63-19-1020 of the 1976 Code is amended to read:

"Section 63-19-1020. (A) The parent, guardian, or custodian of a child, an official of a child welfare board, a public official charged by law with the care of the poor, the recognized agents of an agency, association, society, or institution, a person having knowledge or information of a nature which convinces the person that a child is delinquent or that a child, by reason of his own acts in accordance with this chapter, is subject to the jurisdiction of the court, any person who has suffered injury through the delinquency of a child, or an officer having an arrested child in charge, may institute a proceeding respecting the child.

(B) Before the department may accept a referral for the status offenses of incorrigibility or runaway, or before a petition for the offenses of incorrigibility or runaway may be filed, the person or entity seeking to institute the proceeding first shall provide documentation indicating that the parent, guardian, or custodian and the child have made reasonable efforts to resolve the challenges confronting the family through participation in family counseling, pastoral counseling, parenting improvement classes, or other family therapy services. If no prior assistance has been sought, the department shall refer the parent, guardian, or custodian to service providers in the family's community or provide services itself to assist the family.

(C) The department may accept a referral for a school-related offense and a petition may be filed for a school-related offense if the child is: (1) charged with a felony offense, or (2) charged with a misdemeanor offense and the referring entity attaches documentation to the referral demonstrating that the child has three or more prior discipline referrals for related conduct within the prior six months for which the child received a school-based consequence and/or appropriate community referral for services. Discipline referrals for being tardy to class, voluntarily missing class, violating school policy regarding school identification, violating school dress code policy, refusing to obey instruction of school personnel, using profanity, using or possessing tobacco products or paraphernalia, and other minor student misconduct shall not count as prior discipline referrals for purposes of this section. The department shall not accept a referral for and a petition shall not be filed for a school-based misdemeanor offense unless documentation is provided by the referring entity that meets this criteria and further demonstrates that prior consequences, interventions, or community referrals instituted by the school have been attempted and proven unsuccessful. Any referral for a school-based offense must include a copy of the child's school disciplinary history for at least the current school year, including documentation of consequences instituted by the school for the alleged conduct being referred. Before filing of a petition for a school-based offense, consideration must be given to the school-based discipline or other consequences the child received for the alleged conduct subject to the petition.

(D) In addition to the requirements of subsection (C), any school or school district in such a case must provide to the solicitor information regarding:

(1) whether the child accused of an offense is a child with a disability pursuant to 20 U.S.C. section 1400 et seq., as and if amended, and Chapter 33, Title 59 of the South Carolina Code of Laws;

(2) if the child is a child with a disability, whether a manifestation review determination pursuant to 20 U.S.C. section 1415(k)(1)(E), as and if amended, occurred and, if so, whether the child's conduct was determined to be a manifestation of the child's disability;

(3) if the child's conduct was determined to be a manifestation of the child's disability, whether the school district followed the process set forth in 20 U.S.C. section 1415(k)(1)(F), as and if amended; and

(4) any efforts by the school or school district to review the appropriateness of the child's current individualized education program (IEP), behavior intervention plan, compliance with Section 504 of the Federal Rehabilitation Act of 1973, as amended, and placement, and any modifications where appropriate."

SECTION 20. Sections 63-19-1030(C) and (D) of the 1976 Code are amended to read:

"(C) Before the hearing of a case of a child, the judge ~~shall~~ may cause an investigation of all the facts pertaining to the issue to be made. The investigation, if ordered, shall consist of an examination of the parentage and surroundings of the child, the child's age, habits and history, and also shall include inquiry into the home conditions, habits and character of the child's parents or guardian or other responsible person, if that is necessary in the discretion of the court. In these cases the court, if advisable, shall cause the child to be examined as to the child's ~~mentality~~ mental health by a competent and experienced psychologist or psychiatrist who shall make a report of the findings. Before the hearing in the case of a child, if the child attends school, a report on the child must be obtained from the school which the child attends. The school officials shall furnish the report upon the request of the court or its probation counselor. The court, when it is considered necessary, shall cause a complete physical examination to be made of the child by a competent physician.

(D) In ~~a~~ any case ~~where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed~~ upon service of a petition under this chapter, the child or the child's parents or guardian must be given written notice with particularity of the specific charge or factual allegations to be considered at the hearing. The notice must be given as soon as practicable and sufficiently in advance to permit preparation. The child or the child's parent or guardian also must be advised in the notice of their right to be represented by counsel and that, if they are unable to employ counsel, counsel will be appointed to represent them. In the hearing, the parent or guardian and child also must be expressly informed of their right to counsel and must be specifically required to consider whether they do or do not waive the right of counsel."

SECTION 21. Article 9, Chapter 19, Title 63 is amended by adding:

"Section 63-19-1050. Notwithstanding any other provision of law, no child respondent in a case filed under this chapter may be charged a fee to participate in any diversion or intervention program nor shall any child respondent be required to pay more than five hundred dollars in restitution as a requirement of any diversion or intervention program. An otherwise eligible child must not be denied admission into a diversion or intervention program for owing a restitution amount greater than five hundred dollars."

SECTION 22. Article 9, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1070. (A) Except where the petition alleges that the respondent has committed a violent offense, the court may at any time prior to an adjudication of the petition under Section 63-19-1410 and with the consent of the respondent order that the proceeding be adjourned in contemplation of dismissal. An adjournment in contemplation of dismissal is an adjournment of the proceeding, for a period not to exceed six months, with a view to ultimate dismissal of the petition in furtherance of justice. The court may provide such terms and conditions for such an order as the court finds appropriate, consistent with subsection (D).

(B) An order adjourning a petition in contemplation of dismissal may be issued upon motion of any party, or on the court's own motion. Upon issuing such an order, the court must set forth its reasons on the record.

(C) Upon motion of any party, or upon the court's own motion, the court may restore the matter to the calendar at any time during the pendency of the order. If the proceeding is not restored, the petition is, at the expiration of the order, deemed to have been dismissed by the court in furtherance of justice.

(D) Permissible terms and conditions of an adjournment in contemplation of dismissal order may include supervision by the Department of Juvenile Justice; a requirement that the respondent cooperate with a mental health, social services or other appropriate community facility or agency to which the respondent may be referred based on evidence available to the court or the Department of Juvenile Justice; payment of restitution orders determined by agreement of the parties or consistent with the procedures of Section 63-19-1410(A)(3) not to exceed five hundred dollars, or other conditions agreed to by the parties; and a requirement that the respondent comply with other reasonable conditions as the court shall determine to be necessary or appropriate to ameliorate the conduct that gave rise to the filing of the petition or to prevent commitment to the Department of Juvenile Justice."

SECTION 23. Section 63-19-1210 of the 1976 Code is amended to read:

"Section 63-19-1210. In accordance with the jurisdiction granted to the family court pursuant to Sections 63-3-510, 63-3-520, and 63-3-530, jurisdiction over a case involving a child must be transferred or retained as follows:

(1) If, during the pendency of a criminal or quasi-criminal charge against a child in a circuit court of this State, it is ascertained that the child was under the age of eighteen years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all the papers, documents, and testimony connected with it, to the family court of competent jurisdiction, except in those cases where the Constitution gives to the circuit court exclusive jurisdiction or in those cases where jurisdiction has properly been transferred to the circuit court by the family court under the provisions of this section. The court making the transfer shall order the child to be taken immediately to the place of detention designated by the court or to that court itself, or shall release the child to the custody of some suitable person to be brought before the court at a time designated. The court then shall proceed as provided in this chapter. The provisions of this section are applicable to all existing offenses and to offenses created in the future unless the General Assembly specifically directs otherwise.

(2) Whenever a child is brought before a magistrate or city recorder and, in the opinion of the magistrate or city recorder, the child should be brought to the family court of competent jurisdiction under the provisions of this section, the magistrate or city recorder shall transfer the case to the family court and direct that the child involved be taken there.

(3) When an action is brought in a circuit court which, in the opinion of the judge, falls within the jurisdiction of the family court, he may transfer the action upon his own motion or the motion of any party.

(4) If a child seventeen years of age or older at the time of the alleged commission of the offense is charged with an offense which, if committed by an adult, would be a misdemeanor, a Class E or F felony as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of ten years or less, and if the court, after full investigation, considers it contrary to the best interest of the child or of the public to retain jurisdiction, the court, in its discretion, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult.

(5) If a child ~~fourteen, fifteen, or~~ who was sixteen years of age at the time of the alleged commission of the offense is charged with an offense which, if committed by an adult, would be a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more, the court, after full investigation and hearing, may determine it contrary to the best interest of the child or of the public to retain jurisdiction. The court, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(6) Within thirty days after the filing of a petition in the family court alleging ~~the~~ a child fifteen or sixteen years of age has committed the offense of murder or criminal sexual conduct, the person executing the petition may request in writing that the case be transferred to the court of general sessions with a view to proceeding against the child as a criminal rather than as a child coming within the purview of this chapter. The judge of the family court is authorized to determine this request. If the request is denied, the petitioner may appeal within five days to the circuit court. Upon the hearing of the appeal, the judge of the circuit court is vested with the discretion of exercising and asserting the jurisdiction of the court of general sessions or of relinquishing jurisdiction to the family court. If the circuit judge elects to exercise the jurisdiction of the general sessions court for trial of the case, he shall issue an order to that effect, and then the family court has no further jurisdiction in the matter. Notwithstanding any other provision of law, for any child who has been charged with murder who was seventeen years of age or younger at the time of the alleged commission of the offense whose case is within or has been transferred to the jurisdiction of the general sessions court, the court may upon conviction sentence the child to a term of imprisonment less than the mandatory minimum sentence established under Section 16-3-20(A).

(7) Once the family court relinquishes its jurisdiction over the child and the child is bound over to be treated as an adult, Section 63-19-2020 dealing with the confidentiality of identity and fingerprints does not apply.

(8) When jurisdiction is relinquished by the family court in favor of another court, the court shall have full authority and power to grant bail, hold a preliminary hearing and any other powers as now provided by law for magistrates in such cases.

(9) If a child ~~fourteen~~ sixteen years of age or older is charged with a violation of Section 16-23-430, Section 16-23-20, or Section 44-53-445, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(10) If a child ~~fourteen~~ sixteen years of age or older at the time of the alleged commission of the offense is charged with an offense which, if committed by an adult, provides for a term of imprisonment of ten years or more and the child previously has been adjudicated delinquent in family court or convicted in circuit court for two prior offenses which, if committed by an adult, provide for a term of imprisonment of ten years or more, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult. For the purpose of this item, an adjudication or conviction is considered a second adjudication or conviction only if the date of the commission of the second offense occurred subsequent to the imposition of the sentence for the first offense.

(11) The determination of the family court regarding whether the child is to be transferred or bound over to the court of general sessions is a final order, appealable to the Supreme Court. Both the petitioner and the child have a right of appeal. An appeal must be taken under the appellate rules governing criminal appeals. The appeal pursuant to this subsection must be heard and a determination must be made within one hundred twenty days from the filing of the appeal, absent exceptional circumstances justifying a longer time period. The South Carolina Supreme Court may create rules governing the procedures for the appeal within its rulemaking authority pursuant to Article V of the Constitution of South Carolina."

SECTION 24. Section 63-19-1410 of the 1976 Code, as last amended by Act No. 268 of 2016, is amended to read:

"Section 63-19-1410. (A) When a child is found by decree of the court to be subject to this chapter, the court shall in its decree make a finding of the facts upon which the court exercises its jurisdiction over the child. Following the decree, the court shall enter the least restrictive appropriate disposition order from the following options in view of the seriousness of the delinquent act, such child's culpability as indicated by the circumstances of the particular case, the age of such child, such child's prior record, and such child's strengths and needs and by order may:

(1) cause a child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist, or psychologist and for that purpose place the child in a hospital or other suitable facility;

(2) order care and treatment as it considers best, except as otherwise provided in this section and may designate a state agency as the lead agency to provide a family assessment to the court. The assessment shall include, but is not limited to, the strengths and weaknesses of the family, problems interfering with the functioning of the family and with the best interests of the child, and recommendations for a comprehensive service plan to strengthen the family and assist in resolving these issues.

The lead agency shall provide the family assessment to the court in a timely manner, and the court shall conduct a hearing to review the proposed plan and adopt a plan as part of its order that will best meet the needs and best interest of the child. In arriving at a comprehensive plan, the court shall consider:

(a) additional testing or evaluation that may be needed;

(b) economic services including, but not limited to, employment services, job training, food stamps, and aid to families with dependent children;

(c) counseling services including, but not limited to, marital counseling, parenting skills, and alcohol and drug abuse counseling; and

(d) any other programs or services appropriate to the child's and family's needs.

The lead agency is responsible for monitoring compliance with the court-ordered plan and shall report to the court as the court requires. In support of an order, the court may require the parents or other persons having custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter to do or omit to do acts required or forbidden by law, when the judge considers the requirement necessary for the welfare of the child. In case of failure to comply with the requirement, the court may proceed against those persons for contempt of court;

(3) place the child on probation or under supervision in the child's own home or in the custody of a suitable person elsewhere, upon conditions as the court may determine.

(a) A child placed on probation by the court remains under the authority of the court only until the expiration of the specified term of the child's probation. This specified term of probation ~~may~~ shall not exceed two years for a felony offense or one year for a misdemeanor or status offense, but in no case may probation ~~expire before but not~~ extend after the ~~twentieth~~ nineteenth birthday of the child. A child adjudicated delinquent for a probation violation or held in contempt for violation of a prior court order may be placed on probation for up to an additional six months. When a child is adjudicated for multiple offenses, the maximum term of probation shall be calculated based on the most severe adjudicated offense; however, in no case may probation extend after the child's nineteenth birthday.

(b) Probation means casework services during a continuance of the case. Probation must not be ordered or administered as punishment but as a measure for the protection, guidance, and well-being of the child and the child's family. Probation methods must be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community.

(c) As a condition of probation, the court may order the child to participate in a community mentor program as provided for in Section 63-19-1430.

(d) The court may impose monetary restitution or participation in supervised work or community service, or both, as a condition of probation. Restitution presumptively shall not be ordered for any child who is under the age of sixteen at the time of the offense. To overcome this presumption, the state has a burden of proving by a preponderance of the evidence that the child has the ability to pay the restitution. The Department of Juvenile Justice, in coordination with local community agencies, shall develop and encourage employment of a constructive nature designed to make reparation and to promote the rehabilitation of the child. When considering the appropriate amount of monetary restitution to be ordered, the court shall establish the monetary loss suffered by the victim and then weigh and consider this amount against the number of individuals involved in causing the monetary loss, the child's particular role in causing this loss, and the child's ability to pay the amount over a reasonable period of time. The order for monetary restitution shall specify a monthly payment schedule that will result in full payment for the established amount of restitution by the end of the child's probationary period. In the absence of a monthly payment schedule, the Department of Juvenile Justice shall impose a payment schedule of equal monthly payments that will result in full restitution being paid by the end of the child's probationary period. If the court determines at a contempt of court hearing that the basis for holding the child in contempt is that the child has willfully failed to pay restitution, the court shall make specific findings on the record of the child's willful failure to pay and shall issue an order, other than a commitment order, that addresses the child's failure to pay. The Department of Juvenile Justice shall develop a system for the transferring of court-ordered restitution from the child to the victim or owner of property injured, destroyed, or stolen. ~~As a condition of probation the court may impose upon the child a fine not exceeding two hundred dollars when the offense is one in which a magistrate, municipal, or circuit court judge has the authority to impose a fine. A fine may be imposed when commitment is suspended but not in addition to commitment;~~

(e) If a child is ordered to complete drug screens as a condition of probation or during the community evaluation period and if the child's health insurance does not cover the costs of the drug screens, the Department of Juvenile Justice shall pay for the drug screens or administer them at their local offices at no charge for the child. A child must not be required to pay for drug screens as part of any court order.

(4) order the child to participate in a community mentor program as provided in Section 63-19-1430;

(5) commit the child to the custody or to the guardianship of a public or private institution or agency authorized to care for children or to place them in family homes or under the guardianship of a suitable person. Commitment must be for an indeterminate period but in no event beyond the child's twenty-second birthday. Such commitment only may be ordered subject to the commitment limitations established by Section 63-19-1440;

established by Section 63-19-1440;

(6) require that a child under twelve years of age who is adjudicated delinquent for an offense listed in Section 23-3-430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was adjudicated; ~~and~~

(7) place a child on administrative supervision with the Department of Juvenile Justice for a period of up to one year in order to pay restitution calculated pursuant to subitem (A)(3)(d), or complete community service or other sanction. Administrative supervision is not probation, and administrative supervision terminates automatically upon completion of the ordered sanction or sanctions; and

(8) dismiss the petition or otherwise terminate ~~it's~~ the court's jurisdiction at any time on the motion of either party or on its own motion.

(B) Whenever the court commits a child to an institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and the institution or agency shall give to the court information concerning the child ~~which~~ that the court may require. Counsel of record, if any, must be notified by the court of an adjudication under this section, and in the event there is no counsel of record, the child or the child's parents or guardian must be notified of the adjudication by regular mail from the court to the last address of the child or the child's parents or guardian.

(C) No adjudication by the court of the status of a child is a conviction, nor does the adjudication operate to impose civil disabilities ordinarily resulting from conviction, nor may a child be charged with crime or convicted in a court, except as provided in Section 63-19-1210(6). The disposition made of a child or any evidence given in court does not disqualify the child in a future civil service application or appointment."

SECTION 25. Article 13, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1415. (A) Each Circuit Solicitor may operate one or more specialty treatment court programs, such as a Juvenile Drug Court or a Juvenile Mental Health Court, if authorized by the South Carolina Supreme Court.

(B) Such specialty treatment court programs are to be operated in accordance with national guidelines and evidence based research.

(C) When a child is charged with an offense which places him under the jurisdiction of the family court and the child has substance abuse or mental health issues, the child may be referred to a specialty treatment court program. Upon successful completion of the specialty treatment court program, the proceedings in the family court must be dismissed and the record of the child's offenses for which the child participated in the program must be automatically expunged at no charge to the child.

(D) The participation in the specialty treatment court program shall be voluntary and a child must not be ordered to participate in such program against his will."

SECTION 26. Section 63-19-1440 of the 1976 Code as last amended by Act No. 268 of 2016 is amended to read:

"Section 63-19-1440.(A) A child, after the child's twelfth birthday and before the child's eighteenth birthday or while under the jurisdiction of the family court for disposition of ~~an~~ a criminal offense that occurred prior to the child's eighteenth birthday, or for conduct that is a violation of probation or an act of contempt of court where the prior order of probation or court order arose from an adjudication for a criminal offense, may be committed to the custody of the Department of Juvenile Justice which shall arrange for placement in a suitable corrective environment. Children under the age of twelve years may be committed ~~only~~ to the custody of the department which shall arrange for placement in a suitable corrective environment other than institutional confinement. ~~No~~ A child under the age of eighteen years may not be committed or sentenced to any other penal or correctional institution of this State.

(B) A child may be committed to the custody of the Department of Juvenile Justice as provided below if:

(1) the child has a current adjudication for an offense which would be an A, B, C, or D felony if committed by an adult;

(2) the child has a current adjudication for an offense which would be a misdemeanor if committed by an adult and one or more of the following apply:

(a) the current adjudicated offense involved the use of a firearm, as defined in section 16-23-490(D); or

(b) the child has had at least one prior adjudication for an offense that would be a felony if committed by an adult and at least three other prior adjudications for a delinquent act; or

(3)(a) the child is petitioned for an offense which would be a felony if committed by an adult;

(b) the child is adjudicated for an offense which is a lesser included offense to the petitioned felony offense; and

(c) the parties agree that a commitment is in the child's best interest.

In any case in which the court commits the child to the custody of the department, the court shall issue individualized written findings as to why a less restrictive disposition option would not adequately protect the public or rehabilitate the child. For the purposes of this section, an adjudication is considered a prior adjudication only if the date of the commission of the subsequent offense or delinquent act occurred after the imposition of the sentence for the prior offense or delinquent act.

(C) A child must not be committed to the Department of Juvenile Justice for a status offense or any violation of a court order related to a status offense. A child who is determined by the court to have violated the conditions of probation set forth by the court in an order issued as a result of the child's adjudication of delinquency for a status offense may not be committed to the Department of Juvenile Justice.

(D) All commitments to the custody of the Department of Juvenile Justice for delinquency as opposed to the conviction of a specific crime may be made only for the reasons and in the manner prescribed in Sections 63-3-510, 63-3-520, 63-3-580, 63-3-600, 63-3-650, and this chapter, with evaluations made and proceedings conducted only by the judges authorized to order commitments in this section. When a child is committed to the custody of the department, ~~commitment must be for~~ the court must order:

(1) an indeterminate sentence, not extending beyond the twenty-second birthday of the child unless sooner released by the department, ~~or~~

(2) ~~for~~ a determinate commitment sentence not to exceed ninety days~~.~~, or

(3) if the child is adjudicated delinquent for an offense which provides for a maximum term of imprisonment of fifteen years or more if committed by an adult, the court may order the child committed for a determinate sentence not to exceed one hundred eighty days.

If a child is subject to a disposition order for more than one adjudicated offense, the child may not be committed for consecutive determinate commitment sentences when the total length of the determinate commitment would be for longer than the minimum parole guideline as established by the release authority, pursuant to Article 17 of this Title, if the child were to be committed to the Department of Juvenile Justice for an indeterminate period of time.

A child adjudicated delinquent for a violation of a probation order or held in contempt of court for a violation of a court order related to a misdemeanor or felony offense must not receive an indeterminate commitment sentence but may receive a determinate commitment sentence not to exceed seventy-two hours for a first commitment and a sentence not to exceed ninety days for a second commitment.

~~(C)~~(E)(1) The court, before committing a child as a delinquent ~~or as a part of a sentence including commitments for contempt~~, shall order a community evaluation or temporarily commit the child to the Department of Juvenile Justice for not more than ~~forty-five~~ thirty days for evaluation, subject to the exceptions listed below. A community evaluation is equivalent to a residential evaluation, but it is not required to include all components of a residential evaluation. However, in either evaluation the department shall make a recommendation to the court on the appropriate disposition of the case and shall submit that recommendation to the court before final disposition. ~~The department is authorized to allow any child adjudicated delinquent for a status offense, a misdemeanor offense, or violation of probation or contempt for any offense who is temporarily committed to the department's custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child must not be conducted because the child presents an unreasonable flight or public safety risk to his home community.~~

(2) The court shall only order an evaluation if the child is eligible for commitment pursuant to Section 63-19-1440(B). There is a presumption for a community evaluation. The court may order a residential evaluation for the child in the custody of the Department only if the Court finds that the child presents an unreasonable flight or public safety risk to his home community. The court shall issue individualized written findings why a community evaluation with additional supervision measures arranged by the Department of Juvenile Justice would not adequately protect the public or reasonably ensure the child's presence at a dispositional hearing. The court also may commit a child to the Department of Juvenile Justice for a residential evaluation if the court finds at a contempt hearing that the child willfully failed to cooperate with or successfully complete a community evaluation ordered pursuant to this section.

(3) The court may waive in writing the evaluation of the child and proceed to issue final disposition in the case if the child:

~~(1)~~ (a) has previously received a residential evaluation or a community evaluation and the evaluation is available to the court;

~~(2)~~ (b) has been within the past year temporarily or finally discharged or conditionally released for parole from a correctional institution of the department, and the child's previous evaluation or other equivalent information is available to the court; or

~~(3)~~ (c) receives a determinate commitment sentence not to exceed ninety days.

~~(D)~~(F) When a ~~juvenile~~ child is adjudicated delinquent or convicted of a crime or has entered a plea of guilty or nolo contendere in a court authorized to commit to the custody of the Department of Juvenile Justice, the ~~juvenile~~ child may be committed for an indeterminate period until the ~~juvenile~~ child has reached age twenty-two or until sooner released by the releasing entity or released by order of a judge of the Supreme Court or the circuit court of this State, rendered at chambers or otherwise, in a proceeding in the nature of an application for a writ of habeas corpus. A ~~juvenile~~ child who has not been paroled or otherwise released from the custody of the department by the ~~juvenile's~~ child's nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. If not sooner released by the releasing entity, the ~~juvenile~~ child must be released by age twenty-two according to the provisions of the ~~juvenile's~~ child's commitment; however, notwithstanding the above provision, any ~~juvenile~~ child committed as an adult offender by order of the court of general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.

~~(E)~~(G) A ~~juvenile~~ child committed to the Department of Juvenile Justice following an adjudication for a violent offense contained in Section 16-1-60 ~~or for the offense of assault and battery of a high and aggravated nature~~, who has not been paroled or released from the custody of the department by his eighteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. A ~~juvenile~~ child who has not been paroled or released from the custody of the department by his nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections at age nineteen. If not released sooner by the Board of Juvenile Parole, a ~~juvenile~~ child transferred pursuant to this subsection must be released by his twenty-second birthday according to the provisions of his commitment. Notwithstanding the above provision, a ~~juvenile~~ child committed as an adult offender by order of the court of general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.

~~(F) Notwithstanding subsections (A) and (E), a child may be committed to the custody of the Department of Juvenile Justice or to a secure evaluation center operated by the department for a determinate period not to exceed ninety days when:~~

~~(1) the child has been adjudicated delinquent by a family court judge for a status offense, as defined in Section 63-19-20, excluding truancy, and the order acknowledges that the child has been afforded all due process rights guaranteed to a child offender;~~

~~(2) the child is in contempt of court for violation of a court order to attend school or an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 63-19-20; or~~

~~(3) the child is determined by the court to have violated the conditions of probation set forth by the court in an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 63-19-20 including truancy.~~

~~Orders issued pursuant to this subsection must acknowledge:~~

~~(a) that the child has been advised of all due process rights afforded to a child offender; and~~

~~(b) that the court has received information from the appropriate state or local agency or public entity that has reviewed the facts and circumstances causing the child to be before the court.~~

~~(G)~~(H) A child committed under this section may not be confined with a child who has been determined by the department to be violent.

~~(H)~~(I) After having served at least two-thirds of the time ordered by a court, a child committed to the Department of Juvenile Justice for a determinate period pursuant to this section may be released by the department prior to the expiration of the determinate period for 'good behavior' as determined by the department. ~~The court, in its discretion, may state in the order that the child is not to be released prior to the expiration of the determinate period ordered by the court.~~

~~(I)~~(J) ~~Juveniles~~ A child detained in any temporary holding facility or juvenile detention center or who ~~are~~ is temporarily committed for evaluation to a Department of Juvenile Justice evaluation center for the offense for which ~~they were~~ he is subsequently committed by the family court to the custody of the Department of Juvenile Justice shall receive credit toward ~~their~~ his parole guidelines, if indeterminately sentenced, or credit toward ~~their~~ his date of release, if determinately sentenced, for each day ~~they are~~ he is detained in or temporarily committed to any secure pre-dispositional facility, center, or program. A child detained in an approved home, program, or facility other than a secure juvenile detention facility or a child placed in an out-of-home alternative placement residential setting while undergoing a community evaluation shall also receive time-served credit as described above."

SECTION 27. Section 63-19-1450(A) of the 1976 Code is amended to read:

"(A)(1) No ~~juvenile~~ child may be committed to an institution under the control of the Department of Juvenile Justice who is seriously handicapped by mental illness or ~~retardation~~ intellectual disability.

(a) The Family Court may order an evaluation by the Department of Mental Health or the Department of Disabilities and Special Needs for a determination of serious mental illness or intellectual disability sua sponte or upon a motion of any party involved with the case or upon a recommendation from the Department of Juvenile Justice pursuant to Section 44-24-150(A) and (B) or Section 44-20-450. Nothing within this section prohibits the Department of Mental Health or the Department of Disabilities and Special Needs from using local providers for an evaluation.

(b) Upon the return of the evaluation the court must hold a hearing to determine whether to proceed pursuant to Section 44-24-150(C), Section 44-20-450 or under Title 63 to determine if the child meets the definition of seriously handicapped by mental illness or intellectual disability and whether the child must be committed to the supervision of the Department of Mental Health or the Department of Disabilities and Special Needs. In making the determination the court shall consider, in addition to any evaluation ordered by the court or requested by the parties, the child's past mental health, disability services, special education or similar records provided by any of the parties to determine if this section applies.

(2) If, after a ~~juvenile~~ child is referred to the ~~Reception and Evaluation Center~~ custody of the Department of Juvenile Justice, it is determined that the ~~juvenile~~ child is mentally ill, as defined in Section 44-23-10, or a person with intellectual disability to an extent that the ~~juvenile~~ child could not be properly cared for in its custody, the department through the voluntary admission process or by instituting necessary legal action may accomplish the transfer of the ~~juvenile~~ child to another state agency which in its judgment is best qualified to care for the ~~juvenile~~ child in accordance with the laws of this State. This legal action pursuant to Section 63-3-510(A)(2) must be brought in the ~~juvenile's~~ child's resident county. The department shall establish standards with regard to the physical and mental health of ~~juveniles~~ children whom it can accept for commitment."

SECTION 28. Article 13, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1480. (A) Any case remaining open for twelve months after the date of the disposition shall be reviewed by the court at least annually and closed, unless the court finds by a preponderance of the evidence that the continued provision of services and court involvement are necessary and shall be fruitful to rehabilitate the child or protect the public interest. Upon making a finding that the purposes of this chapter have been met with regard to the child named in the petition, or for such other reason the court may consider appropriate and consistent with the purposes of this chapter, the court may order a case closed. If after the hearing, the court does not close the case, the court may amend earlier dispositional orders when supported by developments since the issuance of such orders. An amended dispositional order shall not result in an increased period of probation or commitment beyond the terms of the original dispositional order. All such findings shall be in writing and shall include the individualized basis upon which those findings were made.

(B) Upon request by the child, the solicitor, or the Department of Juvenile Justice, the court shall also review any case in which the child remains at the Department of Juvenile Justice more than six months after an order of commitment without having been released on parole or having been returned to the Department's custody following revocation of parole, and may amend earlier dispositional orders at such hearings. Successive requests for review shall be granted upon request by the child, the solicitor, or the Department of Juvenile Justice, but the court may deny such requests without a hearing if a review was held less than ninety days prior to receipt of a request for review. Any such request for review by the court shall be decided within forty-five days of the filing of that request. In each instance that the court reviews a case in which the child remains at the Department or remains under the supervision of the Department at the time of review, the child shall be entitled to the assistance of counsel."

SECTION 29. Section 63-19-1810(A) of the 1976 Code is amended to read:

"(A) The release and revocation of release of ~~juveniles~~ children adjudicated delinquent and committed to the department must be determined by:

(1) the department for ~~juveniles~~ children adjudicated delinquent and committed ~~after March 31, 2007,~~ for an indeterminate period for ~~a status offense or~~ a misdemeanor~~, other than assault and battery of a high and aggravated nature or assault with intent to kill,~~ and for ~~juveniles~~ children who have violated probation for ~~a status offense or~~ a misdemeanor~~, other than assault and battery of a high and aggravated nature or assault with intent to kill~~;

(2) the Board of Juvenile Parole for ~~juveniles~~ children adjudicated delinquent and committed for an offense other than an offense provided for in item (1)."

SECTION 30. Section 63-19-1820 of the 1976 Code is amended to read:

"Section 63-19-1820. (A)(1) The Board of Juvenile Parole shall meet monthly and at other times as may be necessary to review the records and progress of ~~juveniles~~ children committed to the custody of the Department of Juvenile Justice for the purpose of deciding the release or revocation of release of these ~~juveniles~~ children. The board shall make periodic inspections, at least quarterly, of the records of these ~~juveniles~~ children and may issue temporary and final discharges or release these ~~juveniles~~ children conditionally and prescribe conditions for release into aftercare. Before a ~~juvenile~~ child is conditionally released, the ~~juvenile~~ child must agree in writing to be subject to search or seizure, without a search warrant, with or without cause, of the ~~juvenile's~~ child's person, any vehicle the ~~juvenile~~ child owns or is driving, and any of the ~~juvenile's~~ child's possessions by:

(a) the ~~juvenile's~~ child's aftercare counselor;

(b) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(c) any other law enforcement officer.

A ~~juvenile~~ child may not be conditionally released by the parole board if he fails to comply with this provision. However, a ~~juvenile~~ child who was adjudicated delinquent of a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not be required to agree to be subject to search or seizure, without a search warrant, with or without cause, of the ~~juvenile's~~ child's person, any vehicle the ~~juvenile~~ child owns or is driving, or any of the ~~juvenile's~~ child's possessions.

Immediately before each search or seizure conducted pursuant to this item, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole or probation or that the individual is currently subject to the provisions of his conditional release. A law enforcement officer conducting a search or seizure without a warrant pursuant to this item shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this item, he is subject to discipline pursuant to the employing agency's policies and procedures.

(2)(a) It is the right of a ~~juvenile~~ child who has not committed a violent offense, as defined by Section 16-1-60, and for whom the board is the releasing entity, to appear personally before the board every three months for the purpose of parole consideration, but no appearance may begin until the board determines that an appropriate period of time has elapsed since the ~~juvenile's~~ child's commitment.

(b) The board may waive the quarterly review of ~~juveniles~~ children committed to the department, for whom the board is the releasing entity, for the commission of a violent crime, as defined in Section 16-1-60, until the ~~juvenile~~ child reaches the minimum parole guidelines the board establishes for the ~~juvenile~~ child. At that point, the board may schedule its first review of the ~~juvenile~~ child from three months up to twelve months after the ~~juvenile~~ child reaches the minimum parole guidelines established by the board. The scheduling of subsequent reviews is in the discretion of the board but must occur within three to twelve months of the ~~juvenile's~~ child's last appearance.

(3) In order to allow reviews and appearances by ~~juveniles~~ children, for whom the board is the releasing entity, the board may assign the members or individuals to meet in panels of not less than three members or individuals, to receive progress reports and recommendations, review cases, meet with ~~juveniles~~ children, meet with counselors, and to hear matters and consider cases for release, parole, and parole revocation. Membership on these panels must be periodically rotated on a random basis. At the meetings of the panels, a unanimous vote must be considered the final decision. A panel vote that is not unanimous must not be considered as a final decision, and the matter must be referred to the full parole board, which shall determine the matter by a majority vote of its membership.

(4) The board may conduct parole hearings by means of a two-way, closed circuit television system.

(5) The board shall develop written guidelines for the consideration of parole release of ~~juveniles~~ children committed to the department for offenses for which the parole board is the releasing entity. The guidelines shall be based on evidence-based, nationally recognized length-of-stay best practices.

The board shall provide these guidelines to ~~juveniles~~ children, for whom the board is the releasing entity, upon commitment and periodically reviewed with each ~~juvenile~~ child to assess the progress made toward achieving release on parole.

(B) In the cases of ~~juveniles~~ children for whom the department is the releasing entity, the department shall establish policies and procedures governing the review and release procedures for these ~~juveniles~~ children.

(C) In the determination of the type of discharges or conditional releases granted, the releasing entity shall consider the interests of the person involved and the interests of society and shall employ the services of and consult with the personnel of the Department of Juvenile Justice. The releasing entity may from time to time modify the conditions of discharges or conditional releases previously granted."

SECTION 31. Section 63-19-1835 of the 1976 Code is amended to read:

"Section 63-19-1835. (A) The department may grant up to a ten-day reduction of the probationary or parole term to probationers and parolees who are under the department's supervision for each month they are compliant with the terms and conditions of their probation or parole order.

(B) Except for an alleged community safety violation, in response to an alleged technical violation of the terms and conditions of a child's probationary or parole term the department must serve on the child a notice of administrative sanctions as an alternative to pursuing a probation violation or parole revocation. Prior to implementation of administrative sanctions, the child and the child's parent or guardian or responsible person must agree in writing to the additional conditions set forth in the notice of administrative sanctions. Once the notice of administrative sanctions is signed, these additional conditions are considered to be incorporated as part of the original probation or parole order, and the department shall file a copy of the notice of administrative sanctions with the court or parole authority. The department shall establish a listing of administrative sanctions for the most common types of supervision violations. The sanctions shall consider the severity of the current violation, the child's previous juvenile record, and the child's risk and needs. The department, in determining the administrative sanctions, shall consider the availability of community-based programs and treatment options. Nothing in this section precludes the department from responding immediately to an alleged community safety violation by initiating violation proceedings with the appropriate authority."

SECTION 32. Sections 63-19-2050(A) and (C) of the 1976 Code as last amended by Act No. 254 of 2018, are further amended to read:

"(A)(1) A person who has been taken into custody for, charged with, or adjudicated delinquent for having committed a ~~status offense or a~~ nonviolent crime, as defined in Section 16-1-70, may petition the court for an order expunging all official records relating to:

(a) being taken into custody;

(b) the charges filed against the person;

(c) the adjudication; and

(d) the disposition.

(2) A person may not petition the court if the person has a prior adjudication for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult."

"(C)(1) ~~If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense, the court shall grant the expungement order. If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed multiple status offenses, the court may grant an expungement order for the multiple status offenses.~~ All official records relating to the taking into custody, the charges filed, the adjudication, and the disposition for committing a status offense, as defined in Section 63-19-20, must be expunged subject to eligibility when the person has reached the age of eighteen. The expungements must occur if the person has no family court delinquency cases pending or family court delinquency sentences to be completed, or as soon thereafter once the person has completed the sentence for any pending cases, the service of any pending dispositional sentences imposed by the family court including probation or parole, or upon the final conclusion of any pending case in the family court if there is a dismissal, a finding of no delinquency, or no sentence is imposed. The expungements must occur after appropriate eligibility verifications upon the earliest of the following:

(a) after notice or written request by the eligible child;

(b) after a regular quarterly system-wide check of children in the system eligible to receive an expungement; or

(c) if technology allows within a jurisdiction, the review for eligibility must occur automatically upon each eligible child's eighteenth birthday.

(2) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a nonviolent crime, as defined in Section 16-1-70, the court may grant the expungement order. For the purpose of this section, any number of offenses for which the individual received youthful offender sentences at a single sentencing proceeding for offenses that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes.

(3) The court shall not grant the expungement order unless the court finds that the person is at least eighteen years of age, has successfully completed any dispositional sentence imposed, has not been subsequently adjudicated for or convicted of any criminal offense, and does not have any criminal charges pending in family court or general sessions court. If the person was found not guilty in an adjudicatory hearing in the family court or the charge was dismissed, the court shall grant the expungement order regardless of the person's age and the person must not be charged a fee for the expungement. An adjudication for a violent crime, as defined in Section 16-1-60, must not be expunged."

SECTION 33. Section 63-19-2050 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) Notwithstanding any other provision of law, an individual who is qualified to petition for record destruction under this section may not be charged a fee to petition for or obtain an order for record destruction, or for any part of the process for adjudicating such a petition."

SECTION 34. Article 19, Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Section 59-18-1970. (A) For purposes of this section, 'a student who has experienced a disruption in the student's education' means a student who experiences one or more changes in public school or school district enrollment during a single school year as the result of:

(1) homelessness as defined in the federal McKinney Vento Homeless Assistance Act and as determined by the public school or school district;

(2) adjudication as:

(a) a victim of child abuse or neglect, pursuant to Chapter 7, Title 63; or

(b) having committed a status offense or an act which, if committed by an adult, would be a crime, pursuant to Chapter 19 of Title 63; or

(3) placement in a mental health treatment facility or habilitation program for developmental disabilities.

(B) If a student who has experienced a disruption in the student's education transfers to a new public school or school district, the receiving public school or school district shall communicate with the sending public school or school district within two business days of the student's enrollment. The sending public school or school district shall provide the receiving public school or school district with any requested records within two business days of having received the receiving public school's or school district's communication.

(C) A student who has experienced a disruption in the student's education because of transferring to a new public school as the result of circumstances set forth in this section shall have:

(1) priority placement in classes that meet state graduation requirements;

(2) timely placement in elective classes that are comparable to those in which the student was enrolled at the student's previous public school or schools as soon as the public school or school district receives verification from the student's records;

(3) equal access to participation in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;

(4) timely assistance and advice from counselors to improve the student's college or career readiness; and

(5) all special education services to which the student is entitled."

SECTION 35. Article 19, Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Section 59-18-1980. (A) As used in this section, 'involved in the juvenile justice system' means a student who has been referred to the Department of Juvenile Justice or the family court due to allegations that the student has committed a delinquent or status offense and voluntary or involuntary conditions have been imposed on the student, including a student who is participating in a diversion program, is under a probation order, is currently supervised by the Department of Juvenile Justice, or has recently entered or left a juvenile or criminal justice placement or is on supervised release or parole.

(B) Each school district and charter school authorized by the Charter School Board or a local school board shall designate an individual to serve as a point of contact for students involved in the juvenile justice system. Charter schools authorized by school districts may use the district's point of contact. Multiple school districts may share a single designated point of contact with approval from the Department of Education and from the Department of Juvenile Justice.

(C) For students transferring into the school district or charter school, the point of contact person shall be responsible for:

(1) ensuring that a student is immediately enrolled regardless of whether the records normally required for enrollment are produced by the last school the student attended or by the student;

(2) ensuring that the enrolling school communicates with the last school attended by a transferring student to obtain relevant academic and other records within two business days of the student's enrollment;

(3) ensuring that the enrolling school performs a timely transfer of credits that the student earned in the last school attended; and

(4) collaborating with the education program staff in a juvenile or criminal justice placement, the child, and the child's parent, guardian, or other legal educational decision maker to develop and implement a plan for assisting the transition of a student to the school district or charter school authorized by the department to minimize disruption to the student's education.

(D) For students transferring out of the school district or charter school authorized by the department, the point of contact person shall be responsible for providing all records to the new school within two business days of receiving a request from the receiving school.

(E) For students involved in the juvenile justice system, the point of contact person shall be responsible for:

(1) ensuring that a student has equal opportunity to participate in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;

(2) ensuring that a student in high school receives timely and ongoing assistance and advice from counselors to improve the student's college and career readiness;

(3) ensuring that a student receives all special education services and accommodations to which the student is entitled under state and federal law;

(4) identifying school staff at each school site who can ensure that students are appropriately supported throughout their enrollment;

(5) supporting communication among the school; the Department of Social Services; the student; the student's parent or guardian; the student's educational decision maker appointed by the children's court; caregivers; and other supportive individuals that the student identifies to ensure that the responsibilities listed in this subsection are implemented; and

(6) ensuring that other school staff and teachers have access to training and resources about the educational challenges and needs of system-involved youth, including trauma-informed practices and the impact of trauma on learning.

(F) The Department of Social Services shall notify a school when a student in the school enters foster care or a student in foster care enrolls in another school.

(G) The student or the student's educational decision maker may notify a school that the student is involved in the juvenile justice system to obtain support and services from the point of contact."

SECTION 36. Section 59-24-60 of the 1976 Code is amended to read:

"Section 59-24-60. In addition to other provisions required by law or by regulation of the State Board of Education, school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which ~~may result or~~ if committed by an adult would be a felony or a crime punishable by a maximum sentence of five years or more of incarceration or which results in ~~injury or~~ serious ~~threat of~~ injury to the person or to another person ~~or his property~~ as defined in local board policy."

SECTION 37. Section 59-63-210 of the 1976 Code is amended to read:

"Section 59-63-210. (A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any ~~crime~~ act which if committed by an adult would be a felony or a crime punishable by a maximum term of imprisonment of five years or more, any violation related to a threat of violence to the school or any person at the school, any act for which there a victim who attends the school who has a reasonable fear for his safety, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. If the action by the district board of trustees is based on conduct by the student that occurred outside of school or school-sanctioned or sponsored activity, such action is permitted only when the conduct at issue amounts to a violent offense as defined in Section 16-1-60 or resulted in moderate or great bodily injury. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B)."

SECTION 38. Section 59-63-1320 of the 1976 Code is amended to read:

"Section 59-63-1320. Eligible alternative school programs shall be provided for, but not limited to, students in grades 6-12 as follows:

(1) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the attention and assistance beyond that of a traditional program as established by the academic history of the student, ~~including the student's academic plan as required in Section 59-18-500,~~ and following other policies and procedures for documenting need established by the district board of trustees.

(2) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the program due to habitual exhibitions of disruptive behavior in violation of the student conduct policies and behavior codes approved by the school board of trustees.

Districts must establish clear guidelines and procedures for the referral of any student into an alternative school program and before a decision is made to assign a student to an alternative school program, a determination must be made that the written and distributed academic and disciplinary policies of the district have been followed.

(3) Students placed in an alternative school program by the district board of trustees as an option to suspension or expulsion or by the dispositive order of a family court judge, with the consent of the local board of trustees. However, before a student may be placed in an alternative school program, a determination must be made by the local board that the written and distributed disciplinary policy of the district has been followed. Districts must establish clear guidelines and procedures for the placement of any student into an alternative school program and at a minimum they shall prescribe due process procedures for placement actions.

(4) When a child who has been enrolled in a Department of Juvenile Justice school district leaves the Department's school district and enrolls or re-enrolls in a school district, the district must not require that student to attend alternative school programs unless:

(a) a student is referred for voluntary attendance at the alternative school program and an intervention team, including parent or guardian and child, agrees such placement is appropriate;

(b) an intervention assessment reveals an imminent threat of injury or a likelihood of serious misconduct that exceeds routine discipline matters will occur if the child remains or reenrolls at his assigned school; or

(c) if the child or the child's parent or guardian objects to the placement in an alternative school, a due process hearing must be held by the district within ten business days and there must be a determination by the hearing officer that the student would be better served in the alternative setting based on clear guidelines and procedures for placement established by the school district.

(5) When students are being considered for placement in an alternative school program, districts must consider the requirements of the Federal Individuals with Disabilities Education Act (IDEA). If a child with a disability for purposes of the IDEA who has been in the custody of the Department of Juvenile Justice leaves the Department's custody and enrolls or re-enrolls in a school district, the district must hold a team meeting to determine on an individualized basis the child's most appropriate educational placement.

(6) If a student placed by the board of trustees in an alternative school program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, information concerning the student's placement in an alternative school program. Upon review of the information, the district in which the student enrolls may continue an alternative education program placement or may allow the student to attend regular classes without completing the period of the placement."

SECTION 39. Sections 63-19-2420 and 63-19-2430 are repealed.

SECTION 40. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections to the subject of juvenile justice reform as recommended by the Senate Select Committee on Raise the Age. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 41. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 42. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

STATEMENT OF ESTIMATED FISCAL IMPACT

Explanation of Fiscal Impact

State Expenditure

This bill amends provisions related generally to the needs and services of children in the custody of DJJ or a local institutional facility.

Department of Juvenile Justice. The bill makes significant changes to sentencing and procedures for juveniles. This bill modifies and adds to the responsibilities of DJJ. The impact of these changes is pending, contingent upon a response from the agency.

Judicial. This bill creates the South Carolina Juvenile Justice Reform Act, which, among other things, ensures children who are considered for, referred to, or incarcerated by the state's juvenile justice system are afforded additional protections and rights. The following is based on a previous response from Judicial on similar legislation. Judicial noted that certain elements of this bill will reduce the number of juvenile cases while others may increase the number of cases.

Elements of the bill which may result in a reduction in the number of cases heard by the family court include:

- the establishment of a juvenile offender civil citation program, pre-detention intervention programs, Juvenile Drug Courts, and Juvenile Mental Health Courts;
- the requirement that juveniles who have committed certain status offenses must be referred to a diversion program;
- the establishment of certain other limits on juvenile referrals;
- the requirement that minor offenses committed by a child in the custody of the Department of Juvenile Justice should, when feasible, be resolved in an administrative manner;
- the establishment of time limits for probation;
- the elimination of general sessions court waivers for fourteen- and fifteen-year-olds for certain offenses; and
- the declaration that the family court's determination as to transfer to general sessions court is a final order, which may be appealed directly to the Supreme Court and must be heard within 120 days.

Elements of the bill which may result in an increase in the number of cases heard by the family court and could potentially create a backlog include:

- the establishment of new factors and procedures for a juvenile being added to and later removed from the Juvenile Sex Offender Registry;
- the option to allow electronic monitoring of juveniles;
- the requirement that law enforcement arrange for a child to consult with legal counsel before any custodial interrogation and the requirement that the court consider this factor for determining admissibility;
- the addition of a procedure for an ex parte order from the family court for releasing a juvenile from custody when an officer does not consent;
- the requirement that child over sixteen who is still in custody must have a hearing before a magistrate within 24 hours; and
- the addition of both factors to consider and limits on pretrial detention.

Elements of the bill which will have an unknown impact on the family courts include:

- the creation of the new offense of student threats; and
- the ability of the family court to order that a proceeding be adjourned in contemplation of dismissal.

As the bill creates new programs, creates new offenses, and establishes new requirements that affect the family courts, there is no data with which to estimate the impact on family court caseloads. However, Judicial indicates any expenditure impact of this bill can be managed within existing appropriations, and therefore, will have no expenditure impact for Judicial.

Attorney General. The expenditure impact of this bill is pending, contingent upon a response from the agency.

Commission on Prosecution Coordination. Based on a previous response on similar legislation, PCC anticipates this bill will result in an undetermined increase for the agency, depending upon the increased magnitude of work for solicitors' offices.

Section 3 of this bill requires all solicitors to have a civil citation program for juvenile offenders. PCC anticipates this will have a significant expenditure impact for additional FTEs, training, and supplies. However, as this is an entirely new program, PCC is unable to estimate how many FTEs may be needed.

Sections 7 and 11 of this bill modify the sex offender registry status for juveniles, including when a person may petition for removal from the registry and extension of the family court's jurisdiction to review certain petitions. These sections also require solicitors or the Attorney General file any notice of opposition to a petition for removal. PCC indicates this will result in moderate expenditure increase to file the notice of opposition for removal from the registry.

Section 25 requires that for a child seventeen or older who is taken into custody and not released to a parent or other responsible adult, there must be a hearing within twenty-four hours from the time of being taken into custody. PCC anticipates this provision will result in a significant expenditure impact to provide services for around-the-clock hearings.

Section 28 requires solicitors to provide justification to override the newly created presumption that the juvenile should first be sent to a diversion program. PCC anticipates this will increase expenditures to manage the additional workload created by this section.

Section 33 increases the age of when a juvenile may be tried as an adult from fourteen to fifteen or sixteen, depending upon the charges. The family court order to try the juvenile as an adult and to transfer the case to circuit court may be appealed directly to the Supreme Court. PCC anticipates that for each new case that is appealed directly to the Supreme Court, there will be a significant increase in expenditures. However, the overall expenditure impact depends on the increased number of cases that are transferred to circuit court and appealed to the Supreme Court.

Section 35 allows solicitors to operate treatment courts if authorized by the Supreme Court. As many circuits already have treatment courts and the participation is voluntary in nature, PCC anticipates any increased expenditures due to this section can be managed within existing appropriations.

Section 38 shifts the responsibility to request to family court for a review of a disposed case to determine whether further supervision is needed from the juvenile parole board to the juvenile, solicitor, or DJJ. PCC anticipates this section will increase expenditures in order to manage the additional responsibility to monitor cases to determine if and when to file for a review.

Commission on Indigent Defense. Based on a previous response on similar legislation, the agency estimates that Sections 28, 29, and 30 will require sixteen new educational attorneys and sixteen new social workers, with one attorney and one social worker assigned to each of the sixteen Circuit Public Defenders Offices. The average salary and fringe for the new attorneys will be $79,200 per lawyer. The social workers salary and fringe will be $75,200 for each position. This will result in 32.0 FTEs and a cost of $2,467,400 annually. These positions will handle the new DJJ truancy and other placement cases that are brought about each year. Section 38, dealing with the issue of post disposition review hearings, would result in 4.0 FTEs and $270,000 annually for four contract attorneys, one to cover the Upstate counties, two to cover the Midlands counties, and one to cover the Low Country counties. The total increase in recurring expenditures is estimated to be $2,737,400 beginning in FY 2022-23.

Department of Public Safety. Section 24 of this bill creates the Juvenile Justice Improvement Fund and allows DJJ to contract with other agencies to establish and maintain a continuum of community-based services for children and families. DPS anticipates it will work with DJJ to administer the newly created fund and the community-based programs. Based on this assumption, the department anticipates hiring a Program Coordinator II. This new FTE will result in a recurring general fund expenditure impact of $85,184 for salary, fringe, and office supplies beginning in FY 2022-23. The department will also incur $2,200 in nonrecurring general funds for computer equipment in FY 2022-23. Therefore, this bill will result in 1.0 FTE and an increase in general fund expenditures of $87,384 in FY 2022-23 and $85,184 each year thereafter.

Department of Children's Advocacy. Section 15 establishes a Children's Bill of Rights, which enables a child who believes his rights have been violated to redress his grievance through the Department of Children's Advocacy. Section 21 prohibits children from being held in solitary confinement and establishes restrictions for when a child may be held in corrective room restriction. Each county, municipal, regional, and state institutional facility that detains or rehabilitates children is required to submit a monthly report attesting to the number of children who were subjected to corrective room restriction during that month and the length of time that child was in corrective room restriction to the Department of Children's Advocacy. In any instance when a child is subjected to corrective room restriction for longer than seventy-two consecutive hours, the facility must report the reason(s) the child was not successfully returned to the general population. The department anticipates this monthly report will require identification of all facilities subject to this requirement and development of processes for providing information to the agency. The department also anticipates the need to create processes for receipt, review, investigation, data entry, reporting, and analysis.

Based on a previous response on similar legislation, the department anticipates it will need 2.0 FTEs, Program Coordinator IIs, at $59,259 each, including both salary and fringe. Also, the department anticipates operating costs will be $18,216 for rent, computers and IT, travel expenses, phones, and general office supplies and postage. Further, the department anticipates a nonrecurring general fund expenditure increase of $1,000 for miscellaneous expenses from the initial office setup. Therefore, this bill will increase general fund expenditures by $137,734 in FY 2022-23 and $136,734 each year thereafter for the Department of Children's Advocacy.

State Department of Education. SCDE previously indicated on similar legislation that the bill would have no expenditure impact since the agency could manage the provisions of the bill within existing appropriations.

Commission on Higher Education and State Board for Technical and Comprehensive Education. CHE previously surveyed the state's public IHLs to determine the expenditure impact of similar legislation. In the fall of 2018, enrollees under the age of eighteen comprised one-half of one percent of all enrollment in the state's public IHLs. Therefore, this bill will affect a very small population of the state's public institutions. Several IHLs indicated that the additional expenditures for staff time and record storage could be managed by the institution. Therefore, the implementation of the bill is not expected to increase general fund expenditures for IHLs.

Department of Mental Health. The family court may, on its own behalf, order an evaluation for a determination of serious mental illness or intellectual disability. Based on DMH's previous response on similar legislation, the department does not anticipate this provision will change the number of children diverted to the agency. Therefore, the bill will have no expenditure impact on DMH.

Department of Disabilities and Special Needs. The family court may, on its own behalf, order an evaluation for a determination of serious mental illness or intellectual disability. Based on DDSN's previous response on similar legislation, the agency anticipates being able to manage any additional or modified responsibilities within existing appropriations. Therefore, the bill will have no expenditure impact for DDSN.

State Revenue

This bill, in sections 44 and 45, prohibits administrative expungement fees for the expungement of certain status offenses and non-violent crimes. The current fee is $250. This bill will result in a loss of other funds revenue of $250 for each administrative expungement fee not collected. The number of cases where the fee will not be collected is unknown, therefore the revenue reduction is undetermined. The bill will have an additional undetermined impact on other funds fine and fee revenue due to changes in hearings and procedures for prosecution of juveniles.

Local Expenditure

SCDE previously surveyed the regular school districts regarding the expenditure impact of similar legislation and received responses from twenty-one school districts. Seventeen of the responding districts indicated that the bill would have no expenditure impact. Responses from the remaining four districts varied widely for training, policy development, reporting, and records retention needs. Therefore, the expenditure impact of this bill on local school districts is undetermined and will depend upon the number of students impacted by a given school district.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS, 1976, TO ENACT THE "SOUTH CAROLINA JUVENILE JUSTICE REFORM ACT", TO AMEND SECTION 63-1-20, RELATING TO THE CHILDREN'S POLICY OF SOUTH CAROLINA, TO INCLUDE WITHIN THE STATEMENT A PROVISION TO ESTABLISH A POLICY REGARDING THE CARE AND GUIDANCE OF CHILDREN WITHIN THE JUVENILE JUSTICE SYSTEM; TO AMEND CHAPTER 19, TITLE 63, RELATING TO THE JUVENILE JUSTICE CODE, BY ADDING ARTICLE 6 TO REQUIRE EACH CIRCUIT SOLICITOR TO ESTABLISH A JUVENILE OFFENDER CIVIL CITATION PROGRAM TO PROVIDE A CIVIL DIVERSION PROGRAM FOR CHILDREN WHO HAVE COMMITTED ACTS OF DELINQUENCY, AND TO ESTABLISH ELIGIBILITY AND PARTICIPATION REQUIREMENTS; TO AMEND SECTION 16-17-425, RELATING TO UNLAWFUL STUDENT THREATS, TO ESTABLISH THAT IT IS UNLAWFUL FOR A STUDENT TO MAKE A THREAT TO COMMIT AN ACT OF MASS VIOLENCE AT A SCHOOL, COLLEGE, OR UNIVERSITY, OR AT A SCHOOL-, COLLEGE-, OR UNIVERSITY-SPONSORED ACTIVITY, AND TO PROVIDE PENALTIES; TO AMEND SECTION 16-23-430, RELATING TO POSSESSION OF A WEAPON ON SCHOOL GROUNDS, TO PROVIDE THAT IT IS UNLAWFUL FOR ANY PERSON TO CARRY, WHILE ON ELEMENTARY OR SECONDARY SCHOOL PROPERTY, A KNIFE, FIREARM, OR OTHER WEAPON WITH THE INTENT BY THE PERSON TO INFLICT SERIOUS BODILY INJURY OR DEATH, OR TO CARRY UPON HIS PERSON A WEAPON, DEVICE, OR OBJECT WITH THE INTENT TO INFLICT BODILY INJURY AND TO PROVIDE PENALTIES AND EXCEPTIONS; TO AMEND SECTION 23-3-430, RELATING TO THE SEX OFFENDER REGISTRY STATUTE, BY REMOVING REFERENCES TO ADJUDICATED DELINQUENCIES; TO AMEND ARTICLE 7, CHAPTER 3, TITLE 23, RELATING TO THE SEX OFFENDER REGISTRY, BY ADDING SECTION 23-3-435 TO REQUIRE THE COURT TO MAKE A FINDING TO DETERMINE IF A CHILD ADJUDICATED DELINQUENT FOR AN ELIGIBLE OFFENSE IS REQUIRED TO REGISTER AS A SEX OFFENDER OR PARTICIPATE IN ELECTRONIC MONITORING AND TO PROVIDE FOR THE CHILD THE ABILITY AT A LATER DATE TO REQUEST A HEARING TO END THE REQUIREMENTS OF REGISTERING AS A SEX OFFENDER OR PARTICIPATING IN ELECTRONIC MONITORING; TO AMEND SECTION 23-3-490, RELATING TO PUBLIC INSPECTION OF THE SEX OFFENDER REGISTRY, TO REQUIRE THAT ACCESS TO INFORMATION REGARDING A CHILD'S ADJUDICATION OF DELINQUENCY FOR A SEX OFFENDER STATUTE BE LIMITED TO VICTIMS, WITNESSES, CHILDCARE FACILITIES, OR BUSINESSES THAT PRIMARILY SERVE CHILDREN, WOMEN, OR VULNERABLE ADULTS; TO AMEND SECTION 23-3-540, RELATING TO ELECTRONIC MONITORING, TO CONFORM THE SEX OFFENDER STATUTE TO THE JUVENILE SECTION BY REMOVING REFERENCES TO DELINQUENCY AND THE DEPARTMENT OF JUVENILE JUSTICE; TO AMEND SECTION 63-1-40, RELATING TO THE DEFINITION OF 'STATUS OFFENSE', TO REMOVE FROM THE DEFINITION THE PLAYING OR LOITERING IN A BILLIARD ROOM, PLAYING A PINBALL MACHINE OR GAINING ADMISSION TO A THEATER BY FALSE IDENTIFICATION; TO

AMEND SECTION 63-3-510, RELATING TO THE JURISDICTION OF THE FAMILY COURT, TO INCLUDE WITHIN THE COURT'S JURISDICTION A PETITION FOR REMOVAL FROM THE SEX OFFENDER REGISTRY IF THE ORDER ORIGINATED FROM THE FAMILY COURT; TO AMEND SECTION 63-3-520, RELATING TO THE CONCURRENT JURISDICTION OF FAMILY COURT AND MAGISTRATES COURT, TO INCREASE THE AGE OF CONCURRENT JURISDICTION FROM PERSONS UNDER SEVENTEEN YEARS OF AGE TO PERSONS UNDER EIGHTEEN YEARS OF AGE; TO AMEND SECTION 63-7-310, RELATING TO THE MANDATORY REPORTING OF CHILD ABUSE, TO REMOVE THE REQUIREMENT THAT A PERSON EMPLOYED BY A LAWYER MUST REPORT SUSPECTED ABUSE IF THE SUSPICION ARISES IN THE COURSE OF THE LEGAL REPRESENTATION; TO AMEND SECTION 63-19-20, RELATING TO THE DEFINITION OF 'STATUS OFFENSE', TO REMOVE FROM THE DEFINITION THE PLAYING OR LOITERING IN A BILLIARD ROOM, PLAYING A PINBALL MACHINE OR GAINING ADMISSION TO A THEATER BY FALSE IDENTIFICATION; TO AMEND CHAPTER 19, TITLE 63, BY ADDING ARTICLE 2 TO ESTABLISH THE 'CHILDREN'S BILL OF RIGHTS' TO PROVIDE THAT A CHILD HAS THE RIGHT TO BE TREATED WITH BASIC HUMAN DIGNITY, TO BE PROVIDED NECESSARY CARE, MEDICAL TREATMENT, FOOD, EDUCATION, ACCESS TO FAMILY, ADVOCATES, AND LAWYERS, AND TO BE FREE FROM ABUSE, NEGLECT, AND HARASSMENT, AND TO PROVIDE FOR THE APPLICATION OF THESE RIGHTS; TO AMEND ARTICLE 1, CHAPTER 19, TITLE 63, BY ADDING SECTION 63-19-210 TO REQUIRE THAT LAW ENFORCEMENT MUST ARRANGE FOR A CHILD FIFTEEN YEARS OF AGE OR YOUNGER TO MEET WITH LEGAL COUNSEL PRIOR TO A CUSTODIAL INTERROGATION UNLESS THE OFFICER BELIEVES THAT THE INFORMATION SOUGHT IS NECESSARY TO PROTECT LIFE OR PROPERTY FROM AN IMMINENT THREAT; TO AMEND SECTION 63-19-340, RELATING TO THE ANNUAL REPORT BY THE DEPARTMENT OF JUVENILE JUSTICE, TO PROVIDE THAT THE REPORT MUST INCLUDE SPECIFIC STATISTICS RELATING TO CHILDREN REFERRED TO THE DEPARTMENT, THEIR RELATED OFFENSES AND SENTENCES; TO AMEND SECTION 63-19-350, RELATING TO THE DEPARTMENT OF JUVENILE JUSTICE, TO REQUIRE THE DEPARTMENT TO DEVELOP AND UTILIZE STRUCTURED DECISION-MAKING TOOLS FOR ALL KEY POINTS OF THE JUVENILE JUSTICE PROCESS; TO AMEND SECTION 63-19-360 TO REQUIRE THE CHILD EVALUATION TO BE CONDUCTED BY THE DEPARTMENT TO INCLUDE A BIOPSYCHOSOCIAL ASSESSMENT AND A DETERMINATION OF THE CHILD'S MENTAL HEALTH FUNCTIONING; TO AMEND ARTICLE 3, CHAPTER 19, TITLE 63, RELATING TO CHILD DELINQUENCY PETITIONS, BY ADDING SECTION 63-19-362 TO REQUIRE THAT BEFORE SUBMITTING A PETITION FOR A CHILD IN ITS CUSTODY FOR A MISDEMEANOR THAT WOULD CARRY A MAXIMUM TERM OF IMPRISONMENT OF FIVE YEARS OR LESS, THE DEPARTMENT OF JUVENILE JUSTICE MUST ATTEMPT TO RESOLVE THE SITUATION THROUGH AVAILABLE ADMINISTRATIVE APPROACHES; TO AMEND ARTICLE 3, CHAPTER 19, TITLE 63, RELATING TO THE DEPARTMENT OF JUVENILE JUSTICE, BY ADDING SECTION 63-19-365 TO PROHIBIT THE USE OF SOLITARY CONFINEMENT ON A CHILD AND PROVIDE LIMITS FOR THE USE OF CORRECTIVE ROOM RESTRICTIONS UPON CHILDREN WITHIN THE CUSTODY OF THE DEPARTMENT; TO AMEND SECTION 63-19-370, RELATING TO INTERDEPARTMENTAL AGREEMENTS, TO ALLOW THE DEPARTMENT OF JUVENILE JUSTICE TO ESTABLISH AGREEMENTS WITH THE DEPARTMENT OF MENTAL HEALTH AND THE DEPARTMENT OF EDUCATION TO PROVIDE REENTRY SERVICES FOR CHILDREN RETURNING TO SCHOOLS AND COMMUNITIES FROM THE DEPARTMENT'S CUSTODY; TO AMEND ARTICLE 3, CHAPTER 19, TITLE 63 BY ADDING SECTION 63-19-500, RELATING TO THE DEPARTMENT OF JUVENILE JUSTICE, TO REQUIRE THAT THE DEPARTMENT ESTABLISH AT LEAST ONE PRE-DETENTION INTERVENTION PROGRAM IN EACH JUDICIAL CIRCUIT AND TO ESTABLISH PROGRAM REQUIREMENTS AND ELIGIBILITY; TO AMEND ARTICLE 3, CHAPTER 19, TITLE 63 BY ADDING SECTION 63-19-520 TO ESTABLISH THE JUVENILE JUSTICE IMPROVEMENT FUND, TO ALLOW THE DEPARTMENT OF JUVENILE JUSTICE TO DIVERT MONEYS SAVED FROM DECREASED RELIANCE ON OUT-OF-HOME PLACEMENT TO FUND COMMUNITY INTERVENTION PROGRAMS INCLUDING EDUCATIONAL, MENTAL HEALTH AND BEHAVIORAL HEALTH SERVICES; TO AMEND SECTION 63-19-810, RELATING TO THE TAKING OF A CHILD INTO CUSTODY BY LAW ENFORCEMENT, TO REMOVE A DUPLICATIVE NOTIFICATION PROVISION BY LAW ENFORCEMENT TO SCHOOL PRINCIPALS AND TO REQUIRE THAT ANY CHILD SEVENTEEN YEARS OF AGE OR OLDER, WHO HAS BEEN TAKEN INTO CUSTODY BUT WHO HAS NOT BEEN RELEASED TO A PARENT OR GUARDIAN, MUST HAVE A BOND HEARING BEFORE A MAGISTRATE; TO AMEND SECTION 63-19-820, RELATING TO THE PRE-TRIAL DETENTION OF CHILDREN, TO LIMIT SECURE PRE-TRIAL DETENTION TO CIRCUMSTANCES WHERE IT IS THE LEAST RESTRICTIVE APPROPRIATE OPTION AND IF THE CHILD IS CHARGED WITH A CRIME THAT WOULD BE A FIVE YEAR FELONY OR GREATER, HAS EXHAUSTED COMMUNITY-BASED ALTERNATIVES, OR IS CHARGED WITH UNLAWFUL STUDENT THREATS OR FAILURE TO STOP FOR A BLUE LIGHT, TO REMOVE THE ELIGIBILITY OF JUVENILES CHARGED AS AN ADULT TO BE HOUSED IN ADULT DETENTION FACILITIES, AND TO PROHIBIT THE SECURE DETENTION OF STATUS OFFENDERS; TO AMEND SECTION 63-19-830, RELATING TO JUVENILE DETENTION HEARINGS, TO ALLOW THE COURT TO ORDER A CHILD DETAINED IN AN APPROVED HOME, PROGRAM, OR FACILITY OTHER THAN A SECURE JUVENILE DETENTION FACILITY WHILE AWAITING TRIAL; TO AMEND SECTION 63-19-1010, RELATING TO JUVENILE INTAKE AND PROBATION, TO REQUIRE THAT A CHILD BROUGHT BEFORE THE FAMILY COURT SHALL HAVE A PRESUMPTION FOR DIVERSION IF CERTAIN CONDITIONS ARE MET OR IF THE SOLICITOR HAS GOOD CAUSE TO BELIEVE THAT DIVERSION WOULD BE INSUFFICIENT; TO AMEND SECTION 63-19-1020, RELATING TO THE INSTITUTION OF PROCEEDINGS FOR A JUVENILE, TO REQUIRE SERVICES TO BE OFFERED BEFORE THE DEPARTMENT MAY ACCEPT A REFERRAL FOR A STATUS OFFENSE OR FOR SCHOOL-BASED OFFENSES; TO AMEND SECTION 63-19-1030, RELATING TO JUVENILE PREHEARING INQUIRIES, TO ESTABLISH THAT THE PREHEARING INVESTIGATION IS OPTIONAL AND TO ESTABLISH THE PARENTS' RIGHT TO RECEIVE NOTICE OF THE CHARGES AND THEIR RIGHTS TO AN ATTORNEY IN EVERY CASE UPON SERVICE OF A PETITION; TO AMEND ARTICLE 9, CHAPTER 19, TITLE 63, RELATING TO INTAKE AND INITIATION OF PROCEEDINGS, BY ADDING SECTION 63-19-1050 TO PROHIBIT THE CHARGING A FEE TO A CHILD AS A CONDITION OF DIVERSION AND TO LIMIT THE AMOUNT OF RESTITUTION REQUIRED OF A CHILD IN DIVERSION TO FIVE HUNDRED DOLLARS; TO AMEND ARTICLE 9, CHAPTER 19, TITLE 63, BY ADDING SECTION 63-19-1070 TO ESTABLISH THAT THE FAMILY COURT MAY ADJOURN A CRIMINAL PROCEEDING AGAINST A JUVENILE IN CONTEMPLATION OF DISMISSAL UPON COMPLETION OF CERTAIN CONDITIONS ESTABLISHED BY THE COURT, AND TO ESTABLISH ELIGIBILITY AND PARTICIPATION REQUIREMENTS; TO AMEND SECTION 63-19-1210, RELATING TO THE TRANSFER OF JURISDICTION, TO ELIMINATE THE TRANSFER TO GENERAL SESSIONS FOR A CHILD FOURTEEN OR FIFTEEN YEARS OF AGE, TO ALLOW A CHILD WHO IS TRANSFERRED TO GENERAL SESSIONS WHO HAS BEEN CHARGED WITH MURDER TO BE ELIGIBLE TO RECEIVE A SENTENCE LESS THAN THE MANDATORY MINIMUM, AND TO ALLOW THE DETERMINATION BY THE COURT TO TRANSFER THE CHILD'S CASE TO GENERAL SESSIONS TO BE IMMEDIATELY APPEALABLE TO THE SUPREME COURT; TO AMEND SECTION 63-19-1410, RELATING TO THE ADJUDICATION OF DELINQUENCY, TO REQUIRE THE COURT TO ORDER THE LEAST RESTRICTIVE APPROPRIATE PLACEMENT FOR A CHILD ADJUDICATED DELINQUENT, TO LIMIT THE LENGTH OF PROBATION TO TWO YEARS FOR A FELONY OR ONE YEAR FOR A MISDEMEANOR OR STATUS OFFENSE UNLESS THE CHILD IS IN VIOLATION OF PROBATION, THERE IS AGREEMENT AMONGST THE PARTIES, OR THE CHILD IS PARTICIPATING IN A EVIDENCED-BASED PROGRAM THAT IS LONGER THAT THE ALLOWED TERM, TO LIMIT PROBATION TO NOT EXTEND AFTER A CHILD'S TWENTIETH BIRTHDAY, TO LIMIT THE IMPOSITION OF RESTITUTION FOR A CHILD UNDER THE AGE OF SIXTEEN UNLESS IT IS PROVEN THAT THE CHILD HAS THE ABILITY TO PAY, TO PROHIBIT THE CHILD FROM BEING ORDERED TO PAY FOR DRUG SCREENS UNLESS THE CHILD HAS INSURANCE TO COVER THE COST, AND TO ALLOW FOR THE DEPARTMENT OF JUVENILE JUSTICE TO PLACE THE CHILD ON ADMINISTRATIVE SUPERVISION FOR UP TO ONE YEAR TO PAY FOR RESTITUTION OR COMPLETE COMMUNITY SERVICE; TO AMEND ARTICLE 13, CHAPTER 19, TITLE 63, RELATING TO THE DISPOSITIONAL POWERS OF THE FAMILY COURT, BY ADDING SECTION 63-19-1415 TO ALLOW THE CIRCUIT SOLICITORS TO OPERATE ONE OR MORE SPECIALTY TREATMENT COURTS IF ALLOWED BY THE SUPREME COURT; TO AMEND SECTION 63-19-1440, RELATING TO COMMITMENT OF A JUVENILE FOUND DELINQUENT BY THE COURT, TO LIMIT THE PLACEMENT OF A CHILD INTO THE CUSTODY OF THE DEPARTMENT OF JUVENILE JUSTICE UNLESS THE CHILD COMMITS CERTAIN FELONIES, THE OFFENSE INVOLVES FIREARMS, THE CHILD HAS A RECORD OF CERTAIN OFFENSES, THE CHILD IS ADJUDICATED FOR A LESSER OFFENSE THAT WOULD HAVE BEEN A FELONY AND THE PARTIES AGREE THAT COMMITMENT IS IN THE BEST INTERESTS OF THE CHILD, TO REQUIRE THE COURT TO ISSUE INDIVIDUALIZED FINDINGS AS TO WHY THE COMMITMENT IS THE LEAST RESTRICTIVE SENTENCING OPTION TO PROTECT THE PUBLIC AND REHABILITATE THE CHILD, TO PROHIBIT THE COMMITMENT OF A CHILD WHO HAS BEEN ADJUDICATED FOR A STATUS OFFENSE OR A PROBATION REVOCATION RELATED TO A STATUS OFFENSE, TO ALLOW THE COURT TO SENTENCE A CHILD WHO HAS COMMITTED AN OFFENSE WHICH CARRIES FIFTEEN YEARS OR MORE TO A DETERMINATE SENTENCE OF UP TO ONE HUNDRED EIGHTY DAYS, AND TO LIMIT THE CONSECUTIVE SENTENCING TO NOT EXCEED THE TIME ELIGIBLE FOR AN INDETERMINATE SENTENCE, TO LIMIT THE ELIGIBILITY FOR RESIDENTIAL EVALUATIONS, AND TO ALLOW FOR THE CHILD TO GET TIME SERVED CREDIT FOR COMMITMENTS TO SHORT TERM ALTERNATIVE PLACEMENTS; TO AMEND SECTION 63-19-1450 TO CLARIFY THAT A CHILD MAY NOT BE COMMITTED TO THE DEPARTMENT OF JUVENILE JUSTICE WHO IS HANDICAPPED BY MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY AND TO PROVIDE THAT THE COURT MAY ORDER AN EVALUATION AND HOLD A HEARING REGARDING WHETHER THE CHILD MUST BE COMMITTED TO THE SUPERVISION OF THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; TO AMEND ARTICLE 13, CHAPTER 19, TITLE 63, RELATING TO THE POWERS OF THE FAMILY COURT, BY ADDING SECTION 63-19-1480 TO PROVIDE THAT THE FAMILY COURT MAY CONDUCT POST-DISPOSITIONAL REVIEWS TO DETERMINE IF THE PURPOSES OF THE CRIMINAL SENTENCING HAVE BEEN MET AND THE CHILD'S SENTENCE MAY BE CLOSED, THE HEARING BEING HELD ONLY AFTER ONE YEAR OR IF THE CHILD IS IN THE CUSTODY OF THE DEPARTMENT OF JUVENILE JUSTICE, THEN AFTER SIX MONTHS; TO AMEND SECTION 63-19-1810, RELATING TO PAROLE AND AFTERCARE, TO REMOVE THE AUTHORITY OF THE COURT TO COMMIT A CHILD TO SECURE CUSTODY FOR A PROBATION REVOCATION IF THE CHILD IS ON PROBATION FOR A STATUS OFFENSE; TO AMEND SECTION 63-19-1820, RELATING TO THE BOARD OF JUVENILE PAROLE, TO REQUIRE THE RELEASING ENTITY TO DETERMINE THE LENGTH OF STAY GUIDELINES ARE BASED ON EVIDENCE-BASED BEST PRACTICES, THE RISKS OF REOFFENDING AND THE SEVERITY OF THE OFFENSE; TO AMEND 63-19-1835, RELATING TO COMPLIANCE REDUCTIONS FOR PROBATIONERS AND PAROLEES, TO REQUIRE THE DEPARTMENT OF JUVENILE JUSTICE TO DEVELOP AND IMPLEMENT ADMINISTRATIVE COMMUNITY-BASED SANCTIONS FOR TECHNICAL VIOLATIONS OF PROBATION OR PAROLE; TO AMEND SECTION 63-19-2020, RELATING TO THE CONFIDENTIALITY OF JUVENILE RECORDS, TO REMOVE A REFERENCE TO A DELETED CRIMINAL OFFENSE, TO REQUIRE THE DEPARTMENT OF JUVENILE JUSTICE TO NOTIFY THE ADMINISTRATION OF A COLLEGE OR UNIVERSITY OF AN ENROLLED STUDENT'S CHARGES DELINEATED WITHIN THIS SECTION, AND TO ADD ASSAULT AND BATTERY IN THE FIRST OR SECOND DEGREES TO THE LIST OF CRIMES THAT MUST BE DISCLOSED TO SCHOOL OFFICIALS; TO AMEND SECTION 63-19-2030, RELATING TO THE JUVENILE LAW ENFORCEMENT RECORDS, TO REQUIRE LAW ENFORCEMENT TO PROVIDE CERTAIN INCIDENT REPORTS OF STUDENTS TO APPROPRIATE COLLEGE AND UNIVERSITY ADMINISTRATION, TO REMOVE THE REFERENCE TO ASSAULT AND BATTERY AGAINST SCHOOL PERSONNEL AND ADD THAT REPORTS OF ASSAULT AND BATTERY IN THE FIRST OR SECOND DEGREES MUST BE REPORTED, TO REQUIRE ANY SUCH NOTICE TO INCLUDE LANGUAGE THAT THE CHILD IS INNOCENT UNTIL PROVEN GUILTY, AND TO REQUIRE LAW ENFORCEMENT TO PROVIDE SUBSEQUENT UPDATES OF ANY DISMISSAL OR REDUCTION OF THE CHARGES; TO AMEND SECTION 63-19-2050, RELATING TO THE EXPUNGEMENT OF JUVENILE RECORDS, TO REQUIRE THE EXPUNGEMENT OF ALL OFFICIAL RECORDS RELATED TO THE ADJUDICATION OR DISPOSITION OF A STATUS OFFENSE UPON THE PERSON REACHING EIGHTEEN YEARS OF AGE OR AS SOON THEREAFTER AS HE COMPLETES ANY PENDING FAMILY COURT DISPOSITION AND TO REQUIRE THAT A CHILD SHALL NOT BE CHARGED FOR THE EXPUNGEMENT OF HIS RECORDS ORDERED UNDER THIS SECTION; TO AMEND ARTICLE 19, CHAPTER 18, TITLE 59, BY ADDING SECTION 59-18-1970, TO REQUIRE THAT A SCHOOL DISTRICT FOR A STUDENT WHO HAS TRANSFERRED BECAUSE OF HOMELESSNESS, STATUS AS A VICTIM OF ABUSE OR NEGLECT, ADJUDICATIONS OF DELINQUENCY, OR PLACEMENT IN A FACILITY FOR MENTAL HEALTH OR DEVELOPMENTAL DISABILITIES MUST CONTACT THE STUDENT'S PRIOR SCHOOL WITHIN TWO DAYS OF ENROLLMENT AND TO REQUIRE THE PREVIOUS SCHOOL DISTRICT TO SEND THE STUDENT'S RECORDS WITHIN TWO DAYS OF REQUEST TO THE NEW SCHOOL, AND TO REQUIRE THAT THE STUDENT RECEIVE TIMELY ASSISTANCE, EQUAL ACCESS, AND PRIORITY PLACEMENT RELATING TO THE TRANSFER; TO AMEND ARTICLE 19, CHAPTER 18, TITLE 59, BY ADDING SECTION 59-19-1980, TO REQUIRE SCHOOL DISTRICTS TO PROVIDE SCHOOL LIAISONS TO ASSIST STUDENTS TRANSFERRING DUE TO INVOLVEMENT IN THE JUVENILE JUSTICE SYSTEM; TO AMEND SECTION 59-24-60, RELATING TO THE REQUIREMENT OF SCHOOL OFFICIALS TO CONTACT LAW ENFORCEMENT, TO PROVIDE THAT SCHOOL OFFICIALS MUST CONTACT LAW ENFORCEMENT IF A PERSON COMMITS AN ACTION AT A SCHOOL OR SCHOOL SPONSORED EVENT THAT WOULD BE A FELONY OR A CRIME PUNISHABLE BY FIVE YEARS OR MORE, OR IF THE ACTION RESULTS IN SERIOUS INJURY; TO AMEND SECTION 59-63-210, RELATING TO SCHOOL DISCIPLINE, TO LIMIT THE AUTHORITY OF A SCHOOL DISTRICT TO EXPEL, SUSPEND, OR TRANSFER A PUPIL UNLESS HE COMMITS A FELONY, A CRIME THAT WOULD CARRY A MAXIMUM PUNISHMENT OF FIVE YEARS OR MORE IF COMMITTED BY AN ADULT, THERE IS A THREAT OF VIOLENCE, OR IF THERE IS A VICTIM AT THE SCHOOL WHO HAS A REASONABLE FEAR FOR HIS SAFETY, AND TO LIMIT THE AUTHORITY OF THE SCHOOL DISTRICT IF THE CONDUCT COMMITTED BY THE STUDENT OCCURRED OUTSIDE OF SCHOOL, THEN THE ACTION BY THE SCHOOL DISTRICT MUST ONLY OCCUR IF THE STUDENT'S CONDUCT AMOUNTED TO A VIOLENT OFFENSE OR RESULTED IN MODERATE OR GREAT BODILY INJURY; TO AMEND SECTION 59-63-1320, RELATING TO ALTERNATIVE SCHOOLS, TO RESTRICT THE AUTOMATIC PLACEMENT OF A CHILD RETURNING FROM THE CUSTODY OF THE DEPARTMENT OF JUVENILE JUSTICE TO AN ALTERNATIVE SCHOOL UNLESS THE PARENT OR GUARDIAN AND CHILD AGREE THAT SUCH PLACEMENT IS APPROPRIATE, THERE IS AN INTERVENTION ASSESSMENT THAT DETERMINES THAT THERE IS AN IMMINENT THREAT OR THE LIKELIHOOD OF SERIOUS MISCONDUCT, OR THERE IS A HEARING BY THE DISTRICT WITHIN TEN DAYS, OR IF THE CHILD HAS A DISABILITY UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT THEN THE DISTRICT MUST HOLD A TEAM MEETING TO DETERMINE THE MOST

APPROPRIATE EDUCATIONAL PLACEMENT; AND TO REPEAL SECTIONS 63-19-2420 AND 63-19-2430 RELATING TO THE OFFENSES OF UNLAWFUL LOITERING IN A BILLIARD ROOM AND THE UNLAWFUL PLAYING OF PINBALL.

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

SECTION 1. This act may be referred to as the "South Carolina Juvenile Justice Reform Act".

SECTION 2. Section 63-1-20 of the 1976 Code is amended to read:

"Section 63-1-20. (A) A children's policy is hereby established for this State.

(B) This policy shall be interpreted in conjunction with all relevant laws and regulations and shall apply to all children who have need of services including, but not limited to, those mentally, socially, emotionally, physically, developmentally, culturally, educationally or economically disadvantaged or handicapped, those dependent, neglected, abused or exploited and those who by their circumstance or action violate the laws of this State and are found to be in need of treatment or rehabilitation.

(C) It shall be the policy of this State to concentrate on the prevention of children's problems as the most important strategy which can be planned and implemented on behalf of children and their families. The State shall encourage community involvement in the provision of children's services including, as an integral part, local government, public and private voluntary groups, public and private nonprofit groups and private-for-profit groups in order to encourage and provide innovative strategies for children's services. To maximize resources in providing services to children in need, all agencies providing services to children shall develop methods to coordinate their services and resources. For children with multiple needs, the furtherance of this policy requires all children's services agencies to recognize that their jurisdiction in meeting these children's needs is not mutually exclusive.

(D) When children or their families request help, state and local government resources shall be utilized to compliment community efforts to help meet the needs of children by aiding in the prevention and resolution of their problems. The State shall direct its efforts first to strengthen and encourage family life as the most appropriate environment for the care and nurturing of children. To this end, the State shall assist and encourage families to utilize all available resources. For children in need of services, care and guidance the State shall secure those services as are needed to serve the emotional, mental and physical welfare of children and the best interests of the community, preferably in their homes or the least restrictive environment possible. When children must be placed in care away from their homes, the State shall ~~insure~~ ensure that they are protected against any harmful effects resulting from the temporary or permanent inability of parents to provide care and protection for their children. It is the policy of this State to reunite the child with his family in a timely manner, whether or not the child has been placed in the care of the State voluntarily. When children must be permanently removed from their homes, they shall be placed in adoptive homes so that they may become members of a family by legal adoption or, absent that possibility, other permanent settings.

(E) It shall be the policy of this State that the primary goal of the juvenile justice system is to provide for any child who comes within the jurisdiction of the family court with the care and guidance as will secure his or her physical, emotional, moral, and mental well-being as well as to provide for the safety and security of the child and the community as a whole. It is the intent of the General Assembly to promote a system that will impose accountability for violations of the law, while also providing the treatment, rehabilitation, and education that will equip our children with the ability to live responsible and productive lives, preferably in the child's own home. These policies seek to guarantee due process of law in every proceeding, through which all interested parties are assured fair hearings at which legal rights are recognized and enforced. Above all, this chapter shall be liberally construed to reflect that the paramount juvenile justice policy of this state is to ensure the best interests of children who fall within the family court's jurisdiction.

To accomplish these goals, juvenile justice policies shall be designed and construed to recognize that the ultimate solutions to juvenile crime must be family-based and community-centered. The policy implementation must protect the public safety and support the strengthening of families and educational institutions. Policies must facilitate efficient and effective cooperation, coordination and collaboration among agencies of the local, state and federal government; be outcome-based, allowing for the effective and accurate assessment of program performance; and encourage public and private partnerships to address community risk factors.

The General Assembly also recognizes that placing children in state custody is associated with higher rates of repeat offenses and negative outcomes for the child. It is, therefore, the intent of the General Assembly to preserve and strengthen family relationships, countenancing the removal of a child from his or her home only when it is essential to protect the child. Whenever the court places children in state custody or requires children to participate in community-based interventions, every effort shall be made to ensure these removals or interventions are supported by researched evidence and are mindful of and influenced by research into the effects of trauma, mental health disorders, and other factors on children's development and rehabilitation.

~~(E)~~(F) The children's policy provided for in this chapter shall be implemented through the cooperative efforts of state, county and municipal legislative, judicial and executive branches, as well as other public and private resources. Where resources are limited, services shall be targeted to those children in greatest need.

~~(F)~~(G) In order to carry out this policy each agency, department, institution, committee, and commission which is concerned or responsible for children shall submit as a part of its annual budget request a listing of programs and services for children, the priority order of these programs and services in relation to other services, if any, that are provided by the agency, department, institution, committee, or commission, and a summary of the expenses incurred for the administration of its children's services and programs. In addition, each agency, department, institution, committee, and commission which must submit pursuant to law an annual report to the General Assembly shall include as part of the report a comprehensive statement of how its children's services and programs contributed to the implementation of this policy. Copies of all these budget requests and annual reports must be provided to the Office of the Governor by the agency, department, institution, committee, or commission."

SECTION 3. Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Article 6

Juvenile Offender Civil Citations

Section 63-19-700. Each circuit solicitor must establish a juvenile offender civil citation program to provide a civil alternative to criminal prosecution for eligible children who have committed acts of delinquency as set forth in this article. The Juvenile Offender Civil Citation Program shall be coordinated by a statewide civil citation coordinator within the Department of Juvenile Justice and shall include assessment and intervention services that a child voluntarily agrees to complete in lieu of formal custody and prosecution.

Section 63-19-710. A law enforcement officer having probable cause to believe that a child has committed or attempted to commit an eligible offense of delinquency may refer an eligible child to the Juvenile Offender Civil Citation Program through the issuance of a civil citation. The issuance of a civil citation shall be at the discretion of the law enforcement officer and limited to qualified child offenders. Participation in the Juvenile Offender Civil Citation Program is voluntary on the part of the child offender. Referral to the Juvenile Offender Civil Citation Program shall be made with the consent of the victim if one exists, however, ultimate discretion to admit the child remains with the solicitor's office. The parent or guardian of the child may refuse the child's participation at any time.

Section 63-19-720. (A) A child is eligible to participate in a civil citation program only if he is alleged to have committed an eligible offense. An allegation of the commission of an ineligible offense in addition to an eligible offense precludes participation in the program. An eligible offense includes all alleged offenses except:

(1) any violent offense as defined by Section 16-1-60;

(2) any offense that may be classified as an A, B, C, or D felony; and

(3) any offense involving allegations of harassment or stalking, involving a firearm, or of failure to stop for a blue light.

(B) For the purposes of this article, an 'eligible child offender' means a child who meets both of the following:

(1) no prior adjudication of delinquency, and

(2) no prior referral to the Juvenile Offender Civil Citation Program or any other diversion program unless more than one year has elapsed since the first referral and the prior referral was for a different offense.

(C) A law enforcement officer who chooses not to refer an otherwise eligible child to a civil citation program must provide the reason or reasons for the lack of the referral on a report provided to the program administrator within ten business days from the date the child was taken into custody. The officer must provide the justifications with reasonable specificity for each instance.

Section 63-19-730. (A) A civil citation provided to the child shall include a description of the offense alleged to have been committed; contact information for the designated civil citation program; notification that the child must contact the identified civil citation program within seven business days to schedule their intake and initial assessment; and a warning that failure to contact and to participate with the identified civil citation program may result in the child's detention and the commencement of delinquency proceedings as otherwise provided in this chapter.

(B) At the time of issuance of a civil citation by the law enforcement officer, the law enforcement officer shall advise the child that the child has the option to refuse the civil citation and instead be taken into custody and be subject to the jurisdiction of the family court and prosecution as otherwise provided in this chapter. Upon issuance of a civil citation, the law enforcement officer shall submit the civil citation to the appropriate juvenile civil citation program administrator.

(C) A child issued a civil citation shall contact the identified civil citation program office within seven business days or as otherwise directed in the civil citation and thereafter report to the identified program office to which the child is referred.

(D) Program administrators shall assess referred children using an approved risk assessment tool and may recommend the child to participate in counseling, treatment, community service, or other interventions appropriate to the needs of the child as identified by the assessment.

(E) Upon successful completion of all terms and conditions of the Juvenile Offender Civil Citation Program, the child shall be discharged without detention.

(F) If the child fails to comply with any requirements of the Juvenile Offender Civil Citation Program, including any assessments or required services, or otherwise violates any terms or conditions imposed by the program, the child shall be unsuccessfully discharged from the Juvenile Offender Civil Citation Program. The civil citation program administrator shall serve notice upon on the child to appear before the family court and shall advise the referring law enforcement officer of a child's unsuccessful termination from the program. If the child is not able to be served by the program administrators, the officer, upon receiving notice that the child to whom they have issued a civil citation has been unsuccessfully discharged from the Juvenile Offender Civil Citation Program, shall be authorized to take the child into custody or serve notice to appear before the family court and to commence delinquency proceedings as otherwise provided in this chapter.

(G) The solicitor's office and program administrators may not impose a fee for participation in the program.

(H) Participation in the Juvenile Offender Civil Citation Program shall not, with respect to a subsequent detention, serve to disqualify or otherwise preclude a child from participating in any diversion program at the discretion of the circuit solicitor.

Section 63-19-740. Final discretion regarding the eligibility of program participants remains with the program administrators who may waive requirements of victim consent or failure to contact the office within the required time periods if it is in the best interest of the child to do so.

Section 63-19-750. The Department of Juvenile Justice shall maintain a database of program participants for the purpose of identifying eligibility and overall program statistics. Specific information pertaining to each participant is confidential and not subject to disclosure under the Freedom of Information Act unless otherwise provided for by law. Any necessary information shall be disclosed to law enforcement, civil citation program offices, circuit solicitor's offices, or the Attorney General's office for the purposes of establishing eligibility of participants, or may be disclosed by court order. The results of the offender's participation in the program shall be disclosed to the victim of the offense if one exists. Generalized program statistics, data, and information that do not identify a specific program participant are not considered confidential under this subsection."

SECTION 4. Section 16-17-425 of the 1976 Code is amended to read:

"Section 16-17-425. (A) It is unlawful for a student of a school or college in this State to make threats to ~~take the life of or to inflict bodily harm upon another~~ commit an act of mass violence at a school, college, or school- or college-sponsored activity by using any form of communication whatsoever. As used in this section, 'an act of mass violence' means an act that a reasonable person would conclude could lead to serious bodily injury or death to two or more people.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year, or both.

(C) Nothing contained in this section may be construed to repeal, replace, or preclude application of any other criminal statute."

SECTION 5. Section 16-23-430 of the 1976 Code is amended to read:

"Section 16-23-430. (A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a ~~blackjack, a metal pipe or pole, firearms~~ firearm, or any other type of weapon, device, or object ~~which may be used~~ with the intent by the person to inflict serious bodily injury or death.

(B) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property a weapon, device, or object with the intent to inflict bodily injury.

(C) This section does not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

~~(C)~~(D) A person who violates the provisions of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. A person who violates the provisions of subsection (B) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both. Subsection (B) is a lesser-included offense of subsection (A). Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest."

SECTION 6. Section 23-3-430(A) of the 1976 Code is amended to read:

"(A) ~~Any~~ A person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, ~~adjudicated delinquent for,~~ pled guilty or nolo contendere to an offense described below, or who has been convicted, ~~adjudicated delinquent,~~ pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, ~~adjudicated delinquent,~~ pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, ~~adjudicated delinquent for,~~ pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, ~~shall be~~ is required to register pursuant to the provisions of this article. A person who has been found not guilty by reason of insanity ~~shall~~ must not be required to register pursuant to the provisions of this article unless and until the person is declared to no longer be insane or is ordered to register by the trial judge. A person who has been convicted, ~~adjudicated delinquent,~~ pled guilty or nolo contendere, or found not guilty by reason of insanity in any court in a foreign country may raise as a defense to a prosecution for failure to register that the offense in the foreign country was not equivalent to any offense in this State for which he would be required to register and may raise as a defense that the conviction, ~~adjudication,~~ plea, or finding in the foreign country was based on a proceeding or trial in which the person was not afforded the due process of law as guaranteed by the Constitution of the United States and this State."

SECTION 7. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-435. (A)(1) Notwithstanding Section 23-3-430, a child fourteen years of age or older at the time of the offense who has been adjudicated delinquent by a family court in this State for an offense described in Section 23-3-430(C), or who has been adjudicated delinquent in a comparable court in the United States or a foreign country, or who has been adjudicated delinquent by a court of competent jurisdiction for an offense for which the person was required to register in the state where the adjudication occurred, may be required to register by the family court pursuant to the provisions of this article. The family court shall use its discretion to determine whether a child is to be placed on the sex offender registry and required to comply with registration requirements. In making this determination, the court shall consider:

(a) the likelihood the child will reoffend, based on a psychosexual assessment conducted by a psychologist or psychiatrist employed or contracted by the Department of Juvenile Justice with specific training in the area of juvenile sex offenders;

(b) the age of the child at the time of the offense;

(c) mitigating factors;

(d) aggravating factors including, but not limited to, use of force or weapons; and

(e) other factors the court considers relevant.

(2) Nothing in this section prohibits the child from seeking a psychosexual evaluation to present to the Court in addition to the one ordered pursuant to subsection (A)(1). A copy of any private evaluation must be given to the prosecution at least ten days, excluding weekends and holidays, prior to any hearing on the issue if the evaluation is to be submitted to the Court.

(3) A child under the age of fourteen must not be required to register as a sex offender pursuant to the provisions of this article.

(4) If the family court orders a child to register as a sex offender, the Department of Juvenile Justice shall maintain the child's file in order that it may be accessed if the child subsequently petitions the Court for an order of removal from the sex offender registry pursuant to subsection (C).

(B)(1) If a child is adjudicated delinquent in a family court of any offense listed in Section 23-3-540(G), and is ordered to register pursuant to subsection (A), the court may order that the child upon release from secure commitment be monitored by the Department of Juvenile Justice with an active electronic monitoring device defined by Section 23-3-540(P) for the duration of the time the child is required to remain on the sex offender registry pursuant to the provisions of this article or for any otherwise specified period of time as determined by the court. The duration of the electronic monitoring pursuant to this section may not exceed the time the child is required to register under subsection (A) and must end upon any subsequent order releasing the offender from the requirements of registration. Registration and electronic monitoring requirements do not apply during any time the offender is committed to the custody of the Department of Juvenile Justice, or a local, State, or federal jail, prison, or correctional institution.

(2) A child who is ordered by the court to be electronically monitored must be supervised by the Department of Juvenile Justice and must follow instructions provided by the Department to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the Department within two hours. If the Department determines that a child has violated a term or condition of electronic monitoring, the department shall immediately notify local law enforcement of the violation and the child must be taken before the family court for a violation of Section 23-3-545.

(3) Once the child completes any pending family court sentence or the sentence of any pending adjudication after reaching his eighteenth birthday, or ultimately upon reaching his twenty-second birthday, the monitoring must be supervised by the Department of Probation, Parole, and Pardon Services pursuant to Section 23-3-540.

(4) The child shall abide by other terms and conditions set forth by the Department of Juvenile Justice with regard to the active electronic monitoring device and electronic monitoring program.

(C)(1) A person who before or after the effective date of this subsection is required by the family court to register as a sex offender pursuant to this section may petition the family court, after turning twenty-three years old, for an order to remove the person from the sex offender registry or from any requirement of electronic monitoring, or both, and relieve the person from all future requirements for registration or monitoring. The petition must prove by clear and convincing evidence that the petitioner no longer poses a severe and ongoing threat to the public to reoffend. In considering the petition, the court shall consider:

(a) the likelihood the petitioner will reoffend, based on an updated psychosexual assessment conducted by a psychologist or psychiatrist with specific training in the area of sex offenders provided by the petitioner and any psychosexual assessment provided by the Attorney General's Office or Solicitor's Office;

(b) the age of the petitioner at the time of the offense;

(c) mitigating factors;

(d) aggravating factors including, but not limited to, use of force or weapons;

(e) any subsequent convictions, adjudications, or pending charges; and

(f) other factors the court determines to be relevant.

(2) Prior to any hearing scheduled pursuant to subitem (C)(1):

(a) the evaluation included with the petition shall include an assessment and review of any prior evaluations, any other relevant materials from files maintained by the Department of Juvenile Justice, and any additional relevant mental health, counseling, or criminal records needed by the examiner. These records must be provided by the petitioner to the examiner in a timely manner before the evaluation; and

(b) the petitioner shall submit to an additional psychosexual evaluation if requested by the Attorney General's Office or the Solicitor's Office and the petitioner shall provide all relevant mental health, counseling, or criminal records for this evaluation in a timely manner before the evaluation. The Attorney General's Office or the Solicitor's Office must request the additional evaluation within thirty days of receiving the petition and initial evaluation.

(3) If the Attorney General's Office, or the Solicitor's Office opposes the petition, they must file a notice of opposition and a request for a court ordered evaluation within thirty days of service of the petition. The court shall then schedule any pre-hearing conferences, evaluations, or the final hearing on the matter. At the hearing, the court may consider testimony or affidavits submitted by either party or the victim.

(4) The Attorney General's Office or the Solicitor's Office must make reasonable efforts to notify the victims upon receipt of the petition and prior to any hearing scheduled pursuant to this section.

(5) If the Court does not grant the petition, the petitioner cannot reapply until after three years from the date of the final order unless otherwise ordered by the court."

SECTION 8. Section 23-3-490(D) of the 1976 Code, as last amended by Act 7 of 2015, is further amended to read:

"(D)(1) For purposes of this article, information ~~on~~ about a ~~person~~ child adjudicated delinquent in family court for an offense listed in Section 23-3-430 must not be made available to the public ~~in accordance with the following provisions:~~, except as provided in items (2) and (3).

~~(1) If a person has been adjudicated delinquent for committing any of the following offenses, information must be made available to the public pursuant to subsections (A) and (B):~~

~~(a) criminal sexual conduct in the first degree (Section 16-3-652);~~

~~(b) criminal sexual conduct in the second degree (Section 16-3-653);~~

~~(c) criminal sexual conduct with minors, first degree (Section 16-3-655(A));~~

~~(d) criminal sexual conduct with minors, second degree (Section 16-3-655(B));~~

~~(e) engaging a child for sexual performance (Section 16-3-810);~~

~~(f) producing, directing, or promoting sexual performance by a child (Section 16-3-820);~~

~~(g) kidnapping (Section 16-3-910); or~~

~~(h) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.~~

(2) Information ~~shall~~ must only be made available, upon request, to victims of or witnesses to the offense, public or private schools, ~~child day care centers, family day care centers,~~ childcare facilities, as defined in Section 63-13-20, or businesses or organizations that primarily serve children, women, or vulnerable adults, as defined in Section 43-35-10(11)~~, for persons adjudicated delinquent for committing any of the following offenses:~~

~~(a) criminal sexual conduct in the third degree (Section 16-3-654);~~

~~(b) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);~~

~~(c) criminal sexual conduct with a minor: assaults with intent to commit (Section 16-3-656);~~

~~(d) criminal sexual conduct with minors, third degree (Section 16-3-655(C));~~

~~(e) peeping (Section 16-17-470);~~

~~(f) incest (Section 16-15-20);~~

~~(g) buggery (Section 16-15-120);~~

~~(h) violations of Article 3, Chapter 15 of Title 16 involving a minor, which violations are felonies; or~~

~~(i) indecent exposure.~~

~~(3) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for a first offense of any offense listed in Section 23-3-430(C) shall be required to register pursuant to the provisions of this chapter; however, the person's name or any other information collected for the offender registry shall not be made available to the public.~~

~~(4) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23-3-430(C) and who has a prior adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23-3-430(C) shall be required to register pursuant to the provisions of this chapter, and all registry information concerning that person shall be made available to the public pursuant to items (1) and (2).~~

~~(5)~~(3) Nothing in this section ~~shall prohibit~~ prohibits the dissemination of all registry information to law enforcement."

SECTION 9. Sections 23-3-540(A), (B), and (Q) of the 1976 Code are amended to read:

"(A) Upon conviction, ~~adjudication of delinquency,~~ guilty plea, or plea of nolo contendere of a person for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1) , or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), the court must order that the person, upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(B) Upon conviction, ~~adjudication of delinquency,~~ guilty plea, or plea of nolo contendere of a person for any other offense listed in subsection (G), the court may order that the person upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device."

"~~(Q) Except for juveniles released from the Department of Corrections, all juveniles adjudicated delinquent in family court, who are required to be monitored pursuant to the provisions of this article by the Department of Probation, Parole and Pardon Services, or who are ordered by a court to be monitored must be supervised, while under the jurisdiction of the family court or Board of Juvenile Parole, by the Department of Juvenile Justice. The Department of Probation, Parole and Pardon Services shall report to the Department of Juvenile Justice all violations of the terms or conditions of electronic monitoring for all juveniles supervised by the department, for as long as the family court or Juvenile Parole Board has jurisdiction over the juvenile. If the Department of Juvenile Justice determines that a juvenile has violated a term or condition of electronic monitoring, the department shall immediately notify local law enforcement of the violation.~~"

SECTION 10. Section 63-1-40(6) of the 1976 Code is amended to read:

"(6) 'Status offense' means any offense which would not be a misdemeanor or felony if committed by an adult, such as, but not limited to, incorrigibility (beyond the control of parents), truancy, or running away~~, playing or loitering in a billiard room, playing a pinball machine or gaining admission to a theater by false identification~~."

SECTION 11. Section 63-3-510(B) of the 1976 Code, as last amended by Act No. 268 of 2016, is further amended to read:

"(B) Whenever the court has acquired the jurisdiction of ~~any~~ a child under eighteen years of age, jurisdiction continues so long as, in the judgment of the court, it may be necessary to retain jurisdiction for the correction or education of the child, but jurisdiction ~~shall~~ must terminate when the child attains the age of twenty-two years; however, the family court shall retain jurisdiction for the purpose of reviewing a petition for removal from the sex offender registry of a prior adjudication in the family court pursuant to Section 23-3-435. ~~Any~~ A child who has been adjudicated delinquent and placed on probation by the court remains under the authority of the court only until the expiration of the specified term of his probation. This specified term of probation may expire before but not after the twentieth birthday of the child."

SECTION 12. Section 63-3-520 of the 1976 Code is amended to read:

"Section 63-3-520.(A) The magistrate courts and municipal courts of this State have concurrent jurisdiction with the family courts for the trial of persons under ~~seventeen~~ eighteen years of age charged with traffic violations or violations of the provisions of Title 50 relating to fish, game, and watercraft when these courts would have jurisdiction of the offense charged if committed by an adult.

(B) The family court shall report to the Department of Motor Vehicles all adjudications of a child for moving traffic violations and other violations that affect the child's privilege to operate a motor vehicle including, but not limited to, controlled substance and alcohol violations as required by other courts of this State pursuant to Section 56-1-330 and shall report to the Department of Natural Resources adjudications of the provisions of Title 50."

SECTION 13. Section 63-7-310 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) A person required to report pursuant to subsection (A) or (B) is not required to report when employed by a lawyer who is providing representation in a criminal, delinquency, civil, or family law matter, and the basis for the suspicion arises in the course of that representation."

SECTION 14. Section 63-19-20(9) of the 1976 Code is amended to read:

"(9) 'Status offense' means an offense which would not be a misdemeanor or felony if committed by an adult including, but not limited to, incorrigibility or beyond the control of parents, truancy, or running away~~, playing or loitering in a billiard room, playing a pinball machine, or gaining admission to a theater by false identification~~."

SECTION 15. Chapter 19, Title 63 of the 1976 Code is amended by adding:

"ARTICLE 2

Children's Bill of Rights

Section 63-19-100. A child in the care and custody of a state, county, municipal or regional institutional facility for the detention of children or for the treatment and rehabilitation of children within this State has the right:

(1) to be treated with basic human dignity and respect, without intentional infliction of humiliation;

(2) to have fair and equal access to services, placement, care, treatment, and benefits;

(3) to a program of education that meets the requirements of law and is appropriate for the developmental maturity of the child;

(4) to receive adequate, healthy, and appropriate food;

(5) to receive adequate, appropriate and accessible basic necessities, including, without limitation, shelter, clean clothing, and personal hygiene products and facilities;

(6) to have access to necessary medical and behavioral health care services, including, without limitation:

(a) dental, vision, and mental health services,

(b) medical and psychological screening, assessment and testing, and

(c) referral to, and receipt of, medical, emotional, psychological or psychiatric evaluation and treatment as soon as practicable after the need for such services has been identified;

(7) to be free from:

(a) abuse or neglect, as defined in Section 63-7-20(6) ,

(b) corporal punishment, except the reasonable use of force that is necessary to preserve the order, security or safety of the child, the public, the staff of the facility or other children who are detained in the facility,

(c) discrimination or harassment on the basis of his or her actual or perceived race, ethnicity, ancestry, national origin, color, religion, sex, sexual orientation, gender identity or expression, mental or physical disability, or exposure to any communicable disease,

(d) the deprivation of food, sleep, exercise, education, pillows, blankets, or personal hygiene products as a form of punishment or discipline,

(e) searches for the purpose of harassment or as a form of punishment or discipline, or

(f) restrictions from a daily shower, clean clothing, drinking water, a toilet, or reading materials relating to the education as a form of punishment or discipline;

(8) to have reasonable access and accommodations to participate in religious services of his or her choice when reasonably available on the premises of the facility or to refuse to participate in religious services;

(9) to communicate with other persons, including, without limitation, the right:

(a) to have regular contact through visits, telephone calls and mail with:

(i) parents,

(ii) guardians,

(iii) siblings,

(iv) biological or adoptive children,

(v) attorneys, and

(vi) other adults with whom the child has established a familial or mentoring relationship, including, without limitation, clergy, caseworkers, teachers, mentors and other persons, upon approval of the facility;

(b) to communicate confidentially with:

(i) any agency which provides child welfare services to the child concerning his or her care,

(ii) attorneys, legal services organizations, and their employees or staff,

(iii) ombudspersons and other advocates,

(iv) members of the clergy, and

(v) holders of public office, and people who work at a state or federal court;

Except as otherwise provided by specific statute, a communication made pursuant to this subsection is not a privileged communication.

(c) to report any alleged violation of his or her rights pursuant to Section 63-19-130 without being threatened or punished; and

(10) to receive information concerning his or her rights set forth in this title.

Section 63-19-110. A detention facility shall:

(1) inform the child of his or her rights as set forth in Section 63-19-100;

(2) provide the child with a written copy of those rights;

(3) provide an additional written copy of those rights to the child upon request;

(4) to the extent that it is practicable, provide a written copy of those rights to the parent or guardian of the child; and

(5) post a written copy of the rights set forth in Section 63-19-100 in a conspicuous place inside the facility.

Section 63-19-120. An institutional facility may impose reasonable restrictions on the time, place, and manner in which a child may exercise his or her rights set forth in Section 63-19-100 if such restrictions are necessary to preserve the order, security or safety of the child, the public, the staff of the facility, or other children who are held in the facility.

Section 63-19-130. If a child believes that any of his or her rights set forth in Section 63-19-100 have been violated, the child may raise and redress a grievance through, without limitation:

(A) a member of the staff of the facility,

(B) a probation officer or parole officer,

(C) an agency which provides child welfare services to the child, and any employee thereof,

(D) a juvenile court with jurisdiction over the child,

(E) a guardian ad litem for the child,

(F) an attorney for the child, or

(G) the Department of Children's Advocacy."

SECTION 16. Article 1, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-210. (A) Prior to any custodial interrogation by law enforcement of any child fifteen years of age or younger, the law enforcement officer or official must arrange for the child to consult with legal counsel either in person, by telephone, or by video conference. The consultation must be made before any request for the child to waive his Miranda rights. The consultation may not be waived.

(B) The court shall, in adjudicating the admissibility of any statements of a child fifteen years of age or younger made during or after a custodial interrogation, consider the effect of the failure to comply with subdivision (A).

(C) This section does not apply if both of the following criteria are met:

(1) the officer who questions the child reasonably believes the information sought is necessary to protect life or property from an imminent threat, and

(2) the officer's questions are limited to those questions that are reasonably necessary to obtain that information.

(D) This section does not apply to a probation officer in the normal performance of his duties."

SECTION 17. Section 63-19-340 of the 1976 Code is amended to read:

"Section 63-19-340. An annual report of the department must be prepared by the director which shall include an account of all funds received and expended, persons served by the department including a report of the state and condition of the correctional institutions, and community programs operated by the department. The annual report must include:

(1) the total number of

(a) offenses referred to the Department;

(b) the top ten most frequent offenses referred to the Department;

(c) status offenses referred to the Department;

(d) probation violation or contempt of court charges referred to the Department following one or more adjudications for a status offense;

(e) misdemeanor referrals;

(f) probation violation or contempt of court charges referred to the Department following an adjudication for one or more misdemeanors;

(g) non-violent felony referrals;

(h) probation violation or contempt of court charges referred to the Department following an adjudication for one or more non-violent felonies;

(i) violent offenses as defined in Section 16-1-60; and

(j) probation violation or contempt of court charges referred to the Department following an adjudication for one or more violent offenses as defined in Section 16-1-60; and

(2) the number of cases in each category listed in subitems (1)(c) through (1)(j) associated with the following outcomes:

(a) cases which are dismissed or diverted;

(b) cases in which a child is detained pre-trial, separately counting children detained in the Department's custody and children detained in a facility operated by another state or local government entity;

(c) adjudications after which a child is placed on probation;

(d) adjudications after which a child is ordered to undergo a community evaluation;

(e) adjudications after which a child is committed to the Department's custody for a residential evaluation;

(f) adjudications after which a child is committed to the Department for a determinate sentence;

(g) adjudications after which the Department places a child in an alternative placement; and

(h) adjudications after which the child is committed to the Department for an indeterminate period of time;

(3) the Department must also provide the totals of each category specified in subsections (1) and (2) broken down by the sex and race of the child; and

(4) the number of individual children placed in corrective room restriction while in the Department's custody, the number of corrective room restrictions imposed (including multiple restrictions placed on an individual child), the average and median length of time children were placed in corrective room restriction, and the number of corrective room restrictions which lasted for seventy-two consecutive hours or more."

SECTION 18. Section 63-19-350 of the 1976 Code is amended by adding an appropriately numbered new subsection to read:

"( ) developing and utilizing structured decision-making tools at all key points in the juvenile justice process, to include detention, diversion, disposition, and release from commitment."

SECTION 19. Section 63-19-360(3) of the 1976 Code is amended to read:

"(3) establishing and maintaining residential and nonresidential reception and evaluation centers at which all children committed to its custody by a circuit or family court must be received, examined, and evaluated before assignment to one of its institutions or before other disposition or recommendation is made concerning the child. The commitment of a child to a reception and evaluation center or youth ~~correctional~~ rehabilitative institution of the department may be made only after the child has been adjudicated delinquent. The evaluation conducted by the reception and evaluation centers includes, but is not limited to:

(a) a ~~complete~~ comprehensive, individualized biopsychosocial assessment to include an examination of the child's social, physical, ~~psychological,~~ and mental health functioning ~~examination~~;

(b) an investigation and consideration of family and community environment and other facts in the background of the person concerned that might relate to the person's delinquency;

(c) a determination of the ~~correctional~~ rehabilitative or custodial care that would be most appropriate. The department shall create facilities and employ personnel ~~as will~~ that enable the centers to conduct the necessary ~~physical, mental, and psychological~~ examinations and assessments required by this section;"

SECTION 20. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-362. When a delinquency petition alleging that a child has committed an offense which would be a misdemeanor that would carry a maximum term of imprisonment of less than five years if committed by an adult and the offense occurred while the child was in the custody of the Department, then the petition must include information that shows the Department has sought to resolve the expressed problem through available administrative approaches, the child has not responded to such approaches and continues to engage in delinquent behavior, and court intervention is needed."

SECTION 21. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-365. (A) As used in this section,

(1) 'solitary confinement' means physical and social isolation in a room or cell for twenty-two hours per day or more.

(2) 'corrective room restriction' means the confinement of a child to a room as a protective action and includes, without limitation:

(a) administrative seclusion;

(b) behavioral room confinement;

(c) corrective room rest; and

(d) room confinement.

(B) No child shall at any time be held in solitary confinement.

(C) A child who is held in a state, county, municipal or regional institutional facility for the detention of children or for the treatment and rehabilitation of children may be subjected to corrective room restriction only if all other less-restrictive options have been exhausted and only for the purpose of ensuring the safety of the child, staff or others or ensuring the security of the facility.

(D) A child must only be subjected to corrective room restriction for the minimum time required to address the unsafe behavior and the child must be returned to the general population of the facility as soon as reasonably possible.

(E) Any action that results in corrective room restriction for more than two hours must be documented in writing and approved by a supervisor.

(F) The facility shall conduct a safety and well-being check on a child subjected to corrective room restriction at least once every ten minutes while the child is subjected to corrective room restriction.

(G) A child who is subjected to corrective room restriction for more than twenty-four hours must be provided:

(1) not less than one hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(2) access to the same meals and medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance and educational services as is provided to children in the general population of the facility;

(3) any other interaction or services necessary to prevent a violation of Subsection (B); and

(4) a review of the corrective room restriction status at least once every twenty-four hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.

(H) The facility shall not subject a child to corrective room restriction for more than seventy-two consecutive hours.

(I) Each county, municipal, regional, or state institutional facility for the detention of children or for the treatment and rehabilitation of children shall report monthly to the Department of Children's Advocacy the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for seventy-two consecutive hours must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful."

SECTION 22. Section 63-19-370 of the 1976 Code is amended to read:

"Section 63-19-370. The department may enter into agreements with the governing bodies of other state departments or institutions for the purpose of effecting a more efficient and economical management of any institution or program under its supervision. The department is authorized to make contracts and expend public funds as required to carry out the functions prescribed for it in this chapter within the limits of appropriated funds.

The department may establish agreements with the Department of Education, the Department of Mental Health, individual school districts, and other state and local departments specific to reentry services for children returning to schools and communities after being in the department's custody, including, but not limited to, mental health counseling, mentoring programs, and educational support services. Programs, resources and services provided under such agreements shall be accessible to students if they are needed while under supervision by the Department and for a reasonable time after supervision has concluded.

All revenues generated from United States Department of Agriculture grants, the Education Finance Act, the Detention Center, and Medicaid federal funding may be retained, carried forward, and expended by the Department of Juvenile Justice, in accordance with applicable regulations, for the costs associated with related programs."

SECTION 23. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-500. (A) At least one pre-detention intervention program shall be established in each judicial circuit in the state to provide services to children in all counties in that circuit for the purpose of offering an alternative to referral to the juvenile justice system for children who commit first-time, non-violent as defined in Section 16-1-70, delinquent acts. Each program shall be available to serve all eligible children in each county in that circuit, and no child shall be required to pay program fees. These programs must divert eligible children from initial contact with the juvenile justice system using approaches that are evidence-based, culturally relevant, trauma-informed, developmentally appropriate, and that promote long-term success for children.

(B) The department shall develop a plan for the establishment, implementation, and oversight of pre-detention diversion programs around the state to which all first-time, non-violent offenders must be referred. The department shall provide competitively awarded funding to at least one such program in each judicial circuit to supplement other funding received by the program. Programs receiving funding from the department must adhere to the standards and procedures for such programs developed by the department, which must include requirements for applicants, organizational characteristics, reporting and auditing criteria, and such other standards for eligibility and accountability, and funding shall be based on the number of children served and such other requirements as may be established by the department. Pre-detention diversion programs may incorporate some or all of the following: educational services, including academic and vocational services; mentoring services; mental health services; and behavioral health services.

(C) A law enforcement officer who takes a child into custody for a non-violent offense as defined in Section 16-1-70 shall utilize a database system provided by the department to review the child's criminal history with the juvenile justice system. If the child has no prior referral to the department, the law enforcement officer must refer the child to the local pre-detention diversion program for that circuit utilizing a referral form provided by the department, and must provide a copy of the referral form to the child's parent or guardian, the department, and the entity designated to run the pre-detention diversion program.

(D) If a referral to the juvenile justice system is received for a first-time non-violent offender, the referral shall not be accepted and shall be returned to the referral source with instructions to refer the child to the entity designated to run the pre-detention diversion program in that respective circuit.

(E) All records of a child's referral to and participation in a pre-detention diversion program must be kept separate from records of children referred to the juvenile justice system. A referral to a pre-detention diversion program is not a referral to the juvenile justice system, and accordingly, must not be reflected on a child's criminal history.

(F) Each pre-detention diversion program shall submit data to the department on at least an annual basis which identifies for each child participating in the diversion program:

(1) the race, ethnicity, gender, and age of that child;

(2) the alleged offense committed, including the statute number of the offense;

(3) the county in which the offense was committed and the law enforcement agency that had contact with the child for the offense; and

(4) other information as specified by the department."

SECTION 24. Article 3, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-520. (A) There is hereby established in the department's budget the Juvenile Justice Improvement Fund. All expenditures from the Juvenile Justice Improvement Fund shall be for the development, implementation, or monitoring of community-based diversion or intervention programs, practices, and services for children and their families that reduce youth risk factors and/or rates of recidivism. The Department shall at least annually transfer into the Juvenile Justice Improvement Fund available state general recurring funds identified as savings as a result of decreased reliance on out-of-home placement of youth.

(B) The department shall create a plan to incentivize the development of a continuum of evidence-based community intervention programs and services for children under supervision of the department. These programs and services shall serve to divert children from further involvement with the juvenile justice system. Intervention programs may incorporate some or all of the following: educational services, including academic and vocational services; mentoring services; mental health services; and behavioral health services. Funding prioritization shall be given to community-based intervention programs that provide services to counties that demonstrate a high rate of out-of-home placement of children and that have few existing community-based alternatives.

(C) The department may contract with a service coordination agency or agencies to assist the department with building a continuum of community-based services for children and families across the state. Among other services, a service coordination agency may provide referral processing, billing, reporting, monitoring of the quality of direct service providers, monitoring of evidence-based programs for fidelity, completion of on-going service gaps analyses, filling of service gaps, assessment of existing treatment capacity, development of new treatment capacity, and selection of and subcontracting with direct service providers."

SECTION 25. Section 63-19-810 of the 1976 Code is amended to read:

"Section 63-19-810. (A) When a child found violating a criminal law or ordinance is taken into custody, the taking into custody is not an arrest. The jurisdiction of the court attaches from the time of the taking into custody. When a child is taken into custody, the officer taking the child into custody shall notify the parent, guardian, or custodian of the child as soon as possible. Unless otherwise ordered by the court, the person taking the child into custody may release the child to a parent, a responsible adult, a responsible agent of a court-approved foster home, group home, nonsecure facility, or program upon the written promise, signed by the person, to bring the child to the court at a stated time or at a time the court may direct. The written promise, accompanied by a written report by the officer, must be submitted to the South Carolina Department of Juvenile Justice as soon as possible, but not later than twenty-four hours after the child is taken into custody. If the person fails to produce the child as agreed, or upon notice from the court, a summons or a warrant may be issued for the apprehension of the person or of the child.

(B) When a child is not released pursuant to subsection (A), the officer taking the child into custody shall immediately notify the authorized representative of the Department of Juvenile Justice, who shall respond within one hour by telephone or to the location where the child is being detained. Upon responding, the authorized representative of the department shall review the facts in the officer's report or petition and any other relevant facts and advise the officer if, in his opinion, there is a need for detention of the child. The officer's written report must be furnished to the authorized representatives of the department and must state:

(1) the facts of the offense;

(2) the reason why the child was not released to the parent. Unless the child is to be detained, the child must be released by the officer to the custody of his parents or other responsible adult upon their written promise to bring the child to the court at a stated time or at a time the court may direct. However, if the offense for which the child was taken into custody is a violent crime as defined in Section 16-1-60, the child may be released only by the officer who took the child into custody. If the officer does not consent to the release of the child, the parents or other responsible adult may apply to any judge of the family court within the circuit for an ex parte order of release of the child. The officer's written report must be furnished to the family court judge. The family court judge may establish conditions for such release.

(C) ~~When a child is charged by a law enforcement officer for an offense which would be a misdemeanor or felony if committed by an adult, not including a traffic or wildlife violation over which courts other than the family court have concurrent jurisdiction as provided in Section 63-3-520, the law enforcement officer also shall notify the principal of the school in which the child is enrolled, if any, of the nature of the offense. This information may be used by the principal for monitoring and supervisory purposes but otherwise must be kept confidential by the principal in the same manner required by Section 63-19-2220(E).~~

~~(D) Juveniles~~ A child may be held in nonsecure custody within the law enforcement center for only the time necessary for purposes of identification, investigation, detention, intake screening, awaiting release to parents or other responsible adult, or awaiting transfer to a juvenile detention facility or to the court for a detention hearing. A child seventeen years of age or older who has not been released to a parent, guardian, or responsible adult, must have a hearing before a magistrate or municipal court judge pursuant to Chapter 15, Title 17 as soon as practicable but not later than twenty-four hours from the time of being taken into custody. The judge shall order his release pending trial in the appropriate magistrate or family court, on his own recognizance without surety unless the court determines in its discretion that such a release does not reasonably assure the appearance of the child as required, or there is an unreasonable danger to the community or an individual. If the child is not released without surety, the court must place his findings regarding his risk of danger or failure to appear in writing as part of the record. The judge as a condition of release shall require the child to appear before the family court at the next available date. Any conditions of release by the magistrate are not binding upon the family court who may review the conditions of bond de novo, and order detention, placement, or release of the child pursuant to Section 63-19-830."

SECTION 26. Section 63-19-820 of the 1976 Code is amended to read:

"Section 63-19-820. (A) When the officer who took the child into custody determines that placement of a ~~juvenile~~ child outside the home is necessary, the authorized representative of the Department of Juvenile Justice shall make a diligent effort to place the child in an approved home, program, or facility, other than a secure juvenile detention facility, when these alternatives are appropriate and available.

(B) Pre-trial detention is authorized only when that is the least restrictive appropriate option available to prevent an unreasonable flight or public safety risk, taking into account the overall rehabilitative purposes of the juvenile justice system and the likely harm to children and to public safety from unnecessary detention, and the child's presumption of innocence. If a child is eligible for detention, authorities should consider what alternatives to detention, if any, would mitigate any flight or public safety risk. A child is eligible for detention in a secure juvenile detention facility only if the child:

(1) is charged with a violent crime as defined in Section 16-1-60;

(2) is charged with a crime which, if committed by an adult, would be a felony or would carry a maximum term of imprisonment of five years or more; ~~a misdemeanor other than a violent crime, and the child:~~

~~(a) is already detained or on probation or conditional release or is awaiting adjudication in connection with another delinquency proceeding;~~

~~(b) has a demonstrable recent record of wilful failures to appear at court proceedings;~~

~~(c) has a demonstrable recent record of violent conduct resulting in physical injury to others; or~~

~~(d) has a demonstrable recent record of adjudications for other felonies or misdemeanors; and~~

~~(i) there is reason to believe the child is a flight risk or poses a threat of serious harm to others; or~~

~~(ii) the instant offense involved the use of a firearm;~~

(3) is a fugitive from another jurisdiction;

(4) ~~requests protection in writing under circumstances that present an immediate threat of serious physical injury;~~

~~(5)~~ had in his possession a deadly weapon;

~~(6)~~(5) ~~has a demonstrable recent record of wilful failure to comply with prior placement orders including, but not limited to, a house arrest order~~ is court ordered to be detained;

~~(7)~~(6) has exhausted suitable community-based alternative programs or placements, ~~no suitable alternative placement~~ and it is determined that detention is ~~in the child's best interest or is~~ necessary to protect the child or public, or both; or

~~(8) is charged with an assault and battery or an assault and battery of a high and aggravated nature on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity.~~

(7) is charged with unlawful student threats pursuant to Section 16-17-425 or failure to stop for a blue light pursuant to Section 56-5-750.

~~A~~ Only a child who meets the criteria provided in this subsection is eligible for detention. Detention is not mandatory for a child meeting the criteria if that child can be supervised adequately at home or in a less secure setting or program. The use of secure detention shall be limited to a child who poses a current risk to public safety or is a current flight risk. If the officer does not consent to the release of the child, the parents or other responsible adult may apply to the family court within the circuit for an ex parte order of release of the child. The officer's written report must be furnished to the family court judge who may establish conditions for the release.

(C) A child must not be detained in secure confinement if the child could not be committed to the custody of the Department of Juvenile Justice pursuant to Section 63-19-1450. The family court shall consider any past mental health, disability services, special education or similar records provided by any of the parties to determine if that section applies. A child considered not competent to stand trial by a competency evaluator is presumed to be ineligible for detention in secure confinement.

(D) ~~No~~ A child ~~may~~ must not be placed in secure confinement or ordered detained by the court in secure confinement in an adult jail or other place of detention for adults for more than six hours. ~~However, the prohibition against the secure confinement of juveniles in adult jails does not apply to juveniles who have been waived to the court of general sessions for the purpose of standing trial as an adult. Juveniles~~ A child placed in secure confinement in an adult jail during this six-hour period must be confined in an area of the jail which is separated by sight and sound from adults similarly confined.

~~(D)~~(E) Temporary holdover facilities may hold ~~juveniles~~ children during the period between initial custody and the initial detention hearing before a family court judge for a period up to forty-eight hours, excluding weekends and state holidays.

~~(E)~~(F) A child who is taken into custody because of a violation of law which would not be a criminal offense under the laws of this State if committed by an adult or because of a violation of a court order related to a status offense must not be placed or ordered detained in an adult or a juvenile detention facility. ~~A child who is taken into custody because of a violation of the law which would not be a criminal offense under the laws of this State if committed by an adult must not be placed or ordered detained more than twenty-four hours in a juvenile detention facility, unless~~ If an order previously has been issued by the court, of which the child has notice and which notifies the child that further violation of the court's order may result in the out-of-home placement ~~secure detention~~ of that child ~~in a juvenile detention facility. If a juvenile is ordered detained for violating a valid court order~~, the ~~juvenile~~ child may not be held in secure confinement in a juvenile detention facility, but may be held in a group home, residential treatment facility, therapeutic foster care, crisis shelter, or other alternative nonsecure placement provided by the Department of Juvenile Justice, when leaving the child outside of state custody will not reasonably protect the child or the public. ~~for not more than seventy-two hours, excluding weekends and holidays.~~ However, nothing in this section precludes a law enforcement officer from taking a status offender into custody.

~~(F)~~(G) Children ten years of age and younger must not be incarcerated in a jail or detention facility for any reason. Children eleven or twelve years of age who are taken into custody for a violation of law which would be a criminal offense under the laws of this State if committed by an adult or who violates conditions of probation for such an offense ~~must~~ may be incarcerated in a ~~jail or~~ juvenile detention facility only by order of the family court.

~~(G)~~(H) For purposes of this section, 'adult jail' or other place of detention for adults includes a state, county, or municipal police station, law enforcement lockup, or holding cell. 'Secure confinement' means an area having bars or other restraints designed to hold one person or a group of persons at a law enforcement location for any period of time and for any reason. Secure confinement in an adult jail or other place of detention does not include a room or a multipurpose area within the law enforcement center which is not secured by locks or other security devices. Rooms or areas of this type include lobbies, offices, and interrogation rooms. ~~Juveniles~~ Children held in these areas are considered to be in nonsecure custody as long as the room or area is not designed for or intended for use as a residential area, the ~~juvenile~~ child is not handcuffed to a stationary object while in the room or area, and the ~~juvenile~~ child is under continuous visual supervision by facility staff while in this room or area which is located within the law enforcement center. Secure confinement also does not include a room or area used by law enforcement for processing 'booking' purposes, irrespective of whether it is determined to be secure or nonsecure, as long as the ~~juvenile's~~ child's confinement in the area is limited to the time necessary to fingerprint, photograph, or otherwise 'book' the ~~juvenile~~ child in accordance with state law."

SECTION 27. Section 63-19-830(A) of the 1976 Code is amended to read:

"(A) If the officer who took the child into custody has not released the child to the custody of the child's parents or other responsible adult, the court shall hold a detention hearing within forty-eight hours from the time the child was taken into custody, excluding Saturdays, Sundays, and holidays. At this hearing, the authorized representative of the department shall submit to the court a report stating the facts surrounding the case and a recommendation as to the child's continued detention pending the adjudicatory and dispositional hearings. The court shall appoint counsel for the child if none is retained. No child may proceed without counsel in this hearing, unless the child waives the right to counsel and then only after consulting at least once with an attorney. At the conclusion of this hearing, the court shall determine whether probable cause exists to justify the detention of the child and the appropriateness of, and need for, the child's continued detention. If continued detention of a ~~juvenile~~ child is considered appropriate by the court and if a juvenile detention facility exists in that county which meets state and federal requirements for the secure detention of ~~juveniles~~ children or if that facility exists in another county with which the committing county has a contract for the secure detention of its ~~juveniles~~ children and if commitment of a ~~juvenile~~ child by the court to that facility does not cause the facility to exceed its design and operational capacity, the family court shall order the detention of the ~~juvenile~~ child in that facility. The family court may also order that the child be detained or remain detained in an approved home, program, or facility, other than a secure juvenile detention facility. A ~~juvenile~~ child must not be detained in secure confinement or in an approved home, program, or facility, other than a secure juvenile detention facility in excess of ninety days except in exceptional circumstances as determined by the court. A detained ~~juvenile~~ child is entitled to further and periodic review:

(1) within ten days following the ~~juvenile's~~ child's initial detention hearing;

(2) within thirty days following the ten-day hearing; and

(3) at any other time for good cause shown upon motion of the child, the State, or the department.

If the child does not qualify for detention or otherwise require continued detention under the terms of Section 63-19-820(A) or (B), the child must be released to a parent, guardian, or other responsible person."

SECTION 28. Section 63-19-1010 of the 1976 Code is amended to read:

"Section 63-19-1010. (A) The Department of Juvenile Justice shall provide intake and probation services for ~~juveniles~~ children brought before the family courts of this State and for persons committed or referred to the department in cooperation with all local officials or agencies concerned. The role and function of intake is to independently assess the circumstances and needs of children referred for possible prosecution in the family court. Recommendations by the department as to intake must be reviewed by the office of the solicitor in the circuit concerned, and the final determination as to whether or not the ~~juvenile~~ child is to be prosecuted in the family court must be made by the solicitor or by the solicitor's authorized assistant, consistent with subsection (C). Statements of the ~~juvenile~~ child contained in the department's files must not be furnished to the solicitor's office as part of the intake review procedure, and the solicitor's office must not be privy to these statements in connection with its intake review.

(B) Where circumstances do not warrant prosecution in the discretion of the solicitor, the intake counselor shall offer referral assistance for services as appropriate for the child and family. In the event that a ~~juvenile~~ child is adjudicated to be delinquent or found by the family court to be in violation of the terms of probation, the intake counselor shall offer appropriate dispositional recommendations to the family court for its consideration and determination of the disposition of the case.

(C)(1) A child brought before the family court or referred to the department for a status offense or an offense which would be a crime if committed by an adult shall be referred to a diversion program and not for prosecution if the following criteria are met:

(a) the child has no prior adjudications;

(b) the child has not been referred to a diversion program within the last twelve months; and

(c) the child is not referred for a violent offense as defined in Section 16-1-60.

(2) If the solicitor or solicitor's authorized assistant has good cause to believe that diversion is insufficient to meet the purposes of this chapter, the solicitor or solicitor's authorized assistant may prosecute the child in family court. The petition shall include notice of the departure from the presumption of diversion and reasons for that departure. Upon motion of the child and upon a finding that no good cause exists, the family court may refer the child for diversion."

SECTION 29. Section 63-19-1020 of the 1976 Code is amended to read:

"Section 63-19-1020. (A) The parent, guardian, or custodian of a child, an official of a child welfare board, a public official charged by law with the care of the poor, the recognized agents of an agency, association, society, or institution, a person having knowledge or information of a nature which convinces the person that a child is delinquent or that a child, by reason of his own acts in accordance with this chapter, is subject to the jurisdiction of the court, any person who has suffered injury through the delinquency of a child, or an officer having an arrested child in charge, may institute a proceeding respecting the child.

(B) Before the department may accept a referral for the status offenses of incorrigibility or runaway, or before a petition for the offenses of incorrigibility or runaway may be filed, the person or entity seeking to institute the proceeding first shall provide documentation indicating that the parent, guardian, or custodian and the child have made reasonable efforts to resolve the challenges confronting the family through participation in family counseling, pastoral counseling, parenting improvement classes, or other family therapy services. If no prior assistance has been sought, the department shall refer the parent, guardian, or custodian to service providers in the family's community or provide services itself to assist the family.

(C) The department may accept a referral for a school-related offense and a petition may be filed for a school-related offense if the child is: (1) charged with a felony offense, or (2) charged with a misdemeanor offense and the referring entity attaches documentation to the referral demonstrating that the child has three or more prior discipline referrals for related conduct within the prior six months for which the child received a school-based consequence and/or appropriate community referral for services. Discipline referrals for being tardy to class, voluntarily missing class, violating school policy regarding school identification, violating school dress code policy, refusing to obey instruction of school personnel, using profanity, using or possessing tobacco products or paraphernalia, and other minor student misconduct shall not count as prior discipline referrals for purposes of this section. The department shall not accept a referral for and a petition shall not be filed for a school-based misdemeanor offense unless documentation is provided by the referring entity that meets this criteria and further demonstrates that prior consequences, interventions, or community referrals instituted by the school have been attempted and proven unsuccessful. Any referral for a school-based offense must include a copy of the child's school disciplinary history for at least the current school year, including documentation of consequences instituted by the school for the alleged conduct being referred. Before filing of a petition for a school-based offense, consideration must be given to the school-based discipline or other consequences the child received for the alleged conduct subject to the petition.

(D) In addition to the requirements of subsection (C), any school or school district in such a case must provide to the solicitor information regarding:

(1) whether the child accused of an offense is a child with a disability pursuant to 20 U.S.C. section 1400 et seq., as and if amended, and Chapter 33, Title 59 of the South Carolina Code of Laws;

(2) if the child is a child with a disability, whether a manifestation review determination pursuant to 20 U.S.C. section 1415(k)(1)(E), as and if amended, occurred and, if so, whether the child's conduct was determined to be a manifestation of the child's disability;

(3) if the child's conduct was determined to be a manifestation of the child's disability, whether the school district followed the process set forth in 20 U.S.C. section 1415(k)(1)(F), as and if amended; and

(4) any efforts by the school or school district to review the appropriateness of the child's current individualized education program (IEP), behavior intervention plan, compliance with Section 504 of the Federal Rehabilitation Act of 1973, as amended, and placement, and any modifications where appropriate."

SECTION 30. Sections 63-19-1030(C) and (D) of the 1976 Code are amended to read:

"(C) Before the hearing of a case of a child, the judge ~~shall~~ may cause an investigation of all the facts pertaining to the issue to be made. The investigation, if ordered, shall consist of an examination of the parentage and surroundings of the child, the child's age, habits and history, and also shall include inquiry into the home conditions, habits and character of the child's parents or guardian, if that is necessary in the discretion of the court. In these cases the court, if advisable, shall cause the child to be examined as to the child's ~~mentality~~ mental health by a competent and experienced psychologist or psychiatrist who shall make a report of the findings. Before the hearing in the case of a child, if the child attends school, a report on the child must be obtained from the school which the child attends. The school officials shall furnish the report upon the request of the court or its probation counselor. The court, when it is considered necessary, shall cause a complete physical examination to be made of the child by a competent physician.

(D) In ~~a~~ any case ~~where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed~~ upon service of a petition under this chapter, the child or the child's parents or guardian must be given written notice with particularity of the specific charge or factual allegations to be considered at the hearing. The notice must be given as soon as practicable and sufficiently in advance to permit preparation. The child or the child's parent or guardian also must be advised in the notice of their right to be represented by counsel and that, if they are unable to employ counsel, counsel will be appointed to represent them. In the hearing, the parent or guardian and child also must be expressly informed of their right to counsel and must be specifically required to consider whether they do or do not waive the right of counsel."

SECTION 31. Article 9, Chapter 19, Title 63 is amended by adding:

"Section 63-19-1050. Notwithstanding any other provision of law, no child respondent in a case filed under this chapter may be charged a fee to participate in any diversion or intervention program nor shall any child respondent be required to pay more than five hundred dollars in restitution as a requirement of any diversion or intervention program. An otherwise eligible child must not be denied admission into a diversion or intervention program for owing a restitution amount greater than five hundred dollars."

SECTION 32. Article 9, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1070. (A) Except where the petition alleges that the respondent has committed a violent offense, the court may at any time prior to an adjudication of the petition under Section 63-19-1410 and with the consent of the respondent order that the proceeding be adjourned in contemplation of dismissal. An adjournment in contemplation of dismissal is an adjournment of the proceeding, for a period not to exceed six months, with a view to ultimate dismissal of the petition in furtherance of justice. The court may provide such terms and conditions for such an order as the court finds appropriate, consistent with subsection (D).

(B) An order adjourning a petition in contemplation of dismissal may be issued upon motion of any party, or on the court's own motion. Upon issuing such an order, the court must set forth its reasons on the record.

(C) Upon motion of any party, or upon the court's own motion, the court may restore the matter to the calendar at any time during the pendency of the order. If the proceeding is not restored, the petition is, at the expiration of the order, deemed to have been dismissed by the court in furtherance of justice.

(D) Permissible terms and conditions of an adjournment in contemplation of dismissal order may include supervision by the Department of Juvenile Justice; a requirement that the respondent cooperate with a mental health, social services or other appropriate community facility or agency to which the respondent may be referred based on evidence available to the court or the Department of Juvenile Justice; payment of restitution orders determined by agreement of the parties or consistent with the procedures of Section 63-19-1410(A)(3) not to exceed five hundred dollars, or other conditions agreed to by the parties; and a requirement that the respondent comply with other reasonable conditions as the court shall determine to be necessary or appropriate to ameliorate the conduct that gave rise to the filing of the petition or to prevent commitment to the Department of Juvenile Justice."

SECTION 33. Section 63-19-1210 of the 1976 Code is amended to read:

"Section 63-19-1210. In accordance with the jurisdiction granted to the family court pursuant to Sections 63-3-510, 63-3-520, and 63-3-530, jurisdiction over a case involving a child must be transferred or retained as follows:

(1) If, during the pendency of a criminal or quasi-criminal charge against a child in a circuit court of this State, it is ascertained that the child was under the age of eighteen years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all the papers, documents, and testimony connected with it, to the family court of competent jurisdiction, except in those cases where the Constitution gives to the circuit court exclusive jurisdiction or in those cases where jurisdiction has properly been transferred to the circuit court by the family court under the provisions of this section. The court making the transfer shall order the child to be taken immediately to the place of detention designated by the court or to that court itself, or shall release the child to the custody of some suitable person to be brought before the court at a time designated. The court then shall proceed as provided in this chapter. The provisions of this section are applicable to all existing offenses and to offenses created in the future unless the General Assembly specifically directs otherwise.

(2) Whenever a child is brought before a magistrate or city recorder and, in the opinion of the magistrate or city recorder, the child should be brought to the family court of competent jurisdiction under the provisions of this section, the magistrate or city recorder shall transfer the case to the family court and direct that the child involved be taken there.

(3) When an action is brought in a circuit court which, in the opinion of the judge, falls within the jurisdiction of the family court, he may transfer the action upon his own motion or the motion of any party.

(4) If a child seventeen years of age or older at the time of the alleged commission of the offense is charged with an offense which, if committed by an adult, would be a misdemeanor, a Class E or F felony as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of ten years or less, and if the court, after full investigation, considers it contrary to the best interest of the child or of the public to retain jurisdiction, the court, in its discretion, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult.

(5) If a child ~~fourteen, fifteen, or~~ who was sixteen years of age at the time of the alleged commission of the offense is charged with an offense which, if committed by an adult, would be a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more, the court, after full investigation and hearing, may determine it contrary to the best interest of the child or of the public to retain jurisdiction. The court, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(6) Within thirty days after the filing of a petition in the family court alleging ~~the~~ a child fifteen or sixteen years of age has committed the offense of murder or criminal sexual conduct, the person executing the petition may request in writing that the case be transferred to the court of general sessions with a view to proceeding against the child as a criminal rather than as a child coming within the purview of this chapter. The judge of the family court is authorized to determine this request. If the request is denied, the petitioner may appeal within five days to the circuit court. Upon the hearing of the appeal, the judge of the circuit court is vested with the discretion of exercising and asserting the jurisdiction of the court of general sessions or of relinquishing jurisdiction to the family court. If the circuit judge elects to exercise the jurisdiction of the general sessions court for trial of the case, he shall issue an order to that effect, and then the family court has no further jurisdiction in the matter. Notwithstanding any other provision of law, for any child who has been charged with murder who was seventeen years of age or younger at the time of the alleged commission of the offense whose case is within or has been transferred to the jurisdiction of the general sessions court, the court may upon conviction sentence the child to a term of imprisonment less than the mandatory minimum sentence established under Section 16-3-20(A).

(7) Once the family court relinquishes its jurisdiction over the child and the child is bound over to be treated as an adult, Section 63-19-2020 dealing with the confidentiality of identity and fingerprints does not apply.

(8) When jurisdiction is relinquished by the family court in favor of another court, the court shall have full authority and power to grant bail, hold a preliminary hearing and any other powers as now provided by law for magistrates in such cases.

(9) If a child ~~fourteen~~ sixteen years of age or older is charged with a violation of Section 16-23-430, Section 16-23-20, or Section 44-53-445, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

(10) If a child ~~fourteen~~ sixteen years of age or older at the time of the alleged commission of the offense is charged with an offense which, if committed by an adult, provides for a term of imprisonment of ten years or more and the child previously has been adjudicated delinquent in family court or convicted in circuit court for two prior offenses which, if committed by an adult, provide for a term of imprisonment of ten years or more, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult. For the purpose of this item, an adjudication or conviction is considered a second adjudication or conviction only if the date of the commission of the second offense occurred subsequent to the imposition of the sentence for the first offense.

(11) The determination of the family court regarding whether the child is to be transferred or bound over to the court of general sessions is a final order, appealable to the Supreme Court. Both the petitioner and the child have a right of appeal. An appeal must be taken under the appellate rules governing criminal appeals. The appeal pursuant to this subsection must be heard and a determination must be made within one hundred twenty days from the filing of the appeal, absent exceptional circumstances justifying a longer time period. The South Carolina Supreme Court may create rules governing the procedures for the appeal within its rulemaking authority pursuant to Article V of the Constitution of South Carolina."

SECTION 34. Section 63-19-1410 of the 1976 Code, as last amended by Act No. 268 of 2016, is amended to read:

"Section 63-19-1410. (A) When a child is found by decree of the court to be subject to this chapter, the court shall in its decree make a finding of the facts upon which the court exercises its jurisdiction over the child. Following the decree, the court shall enter the least restrictive appropriate disposition order from the following options in view of the seriousness of the delinquent act, such child's culpability as indicated by the circumstances of the particular case, the age of such child, such child's prior record, and such child's strengths and needs and by order may:

(1) cause a child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist, or psychologist and for that purpose place the child in a hospital or other suitable facility;

(2) order care and treatment as it considers best, except as otherwise provided in this section and may designate a state agency as the lead agency to provide a family assessment to the court. The assessment shall include, but is not limited to, the strengths and weaknesses of the family, problems interfering with the functioning of the family and with the best interests of the child, and recommendations for a comprehensive service plan to strengthen the family and assist in resolving these issues.

The lead agency shall provide the family assessment to the court in a timely manner, and the court shall conduct a hearing to review the proposed plan and adopt a plan as part of its order that will best meet the needs and best interest of the child. In arriving at a comprehensive plan, the court shall consider:

(a) additional testing or evaluation that may be needed;

(b) economic services including, but not limited to, employment services, job training, food stamps, and aid to families with dependent children;

(c) counseling services including, but not limited to, marital counseling, parenting skills, and alcohol and drug abuse counseling; and

(d) any other programs or services appropriate to the child's and family's needs.

The lead agency is responsible for monitoring compliance with the court-ordered plan and shall report to the court as the court requires. In support of an order, the court may require the parents or other persons having custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter to do or omit to do acts required or forbidden by law, when the judge considers the requirement necessary for the welfare of the child. In case of failure to comply with the requirement, the court may proceed against those persons for contempt of court;

(3) place the child on probation or under supervision in the child's own home or in the custody of a suitable person elsewhere, upon conditions as the court may determine.

(a) A child placed on probation by the court remains under the authority of the court only until the expiration of the specified term of the child's probation. This specified term of probation ~~may~~ presumptively shall not exceed two years for a felony offense or one year for a misdemeanor or status offense, but in no case may probation ~~expire before but not~~ extend after the twentieth birthday of the child. A child adjudicated delinquent for a probation violation or held in contempt for violation of a prior court order may be placed on probation for up to an additional six months. When a child is adjudicated for multiple offenses, the maximum term of probation shall be calculated based on the most severe adjudicated offense. The court may impose a longer term of probation if agreed to by the parties, or if a longer term is needed for the child to complete an evidence-based program as recommended by a clinical evaluation but in no case may probation extend after the child's twentieth birthday.

(b) Probation means casework services during a continuance of the case. Probation must not be ordered or administered as punishment but as a measure for the protection, guidance, and well-being of the child and the child's family. Probation methods must be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community.

(c) As a condition of probation, the court may order the child to participate in a community mentor program as provided for in Section 63-19-1430.

(d) The court may impose monetary restitution or participation in supervised work or community service, or both, as a condition of probation. Restitution presumptively shall not be ordered for any child who is under the age of sixteen at the time of the offense. To overcome this presumption, the state has a burden of proving by a preponderance of the evidence that the child has the ability to pay the restitution. The Department of Juvenile Justice, in coordination with local community agencies, shall develop and encourage employment of a constructive nature designed to make reparation and to promote the rehabilitation of the child. When considering the appropriate amount of monetary restitution to be ordered, the court shall establish the monetary loss suffered by the victim and then weigh and consider this amount against the number of individuals involved in causing the monetary loss, the child's particular role in causing this loss, and the child's ability to pay the amount over a reasonable period of time. The order for monetary restitution shall specify a monthly payment schedule that will result in full payment for the established amount of restitution by the end of the child's probationary period. In the absence of a monthly payment schedule, the Department of Juvenile Justice shall impose a payment schedule of equal monthly payments that will result in full restitution being paid by the end of the child's probationary period. If the court determines at a contempt of court hearing that the basis for holding the child in contempt is that the child has willfully failed to pay restitution, the court shall make specific findings on the record of the child's willful failure to pay and shall issue an order, other than a commitment order, that addresses the child's failure to pay. The Department of Juvenile Justice shall develop a system for the transferring of court-ordered restitution from the child to the victim or owner of property injured, destroyed, or stolen. ~~As a condition of probation the court may impose upon the child a fine not exceeding two hundred dollars when the offense is one in which a magistrate, municipal, or circuit court judge has the authority to impose a fine. A fine may be imposed when commitment is suspended but not in addition to commitment;~~

(e) If a child is ordered to complete drug screens as a condition of probation or during the community evaluation period and if the child's health insurance does not cover the costs of the drug screens, the Department of Juvenile Justice shall pay for the drug screens or administer them at their local offices at no charge for the child. A child must not be required to pay for drug screens as part of any court order.

(4) order the child to participate in a community mentor program as provided in Section 63-19-1430;

(5) commit the child to the custody or to the guardianship of a public or private institution or agency authorized to care for children or to place them in family homes or under the guardianship of a suitable person. Commitment must be for an indeterminate period but in no event beyond the child's twenty-second birthday. Such commitment only may be ordered subject to the commitment limitations established by Section 63-19-1440;

(6) require that a child under twelve years of age who is adjudicated delinquent for an offense listed in Section 23-3-430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was adjudicated; ~~and~~

(7) place a child on administrative supervision with the Department of Juvenile Justice for a period of up to one year in order to pay restitution calculated pursuant to subitem (A)(3)(d), or complete community service or other sanction. Administrative supervision is not probation, and administrative supervision terminates automatically upon completion of the ordered sanction or sanctions; and

(8) dismiss the petition or otherwise terminate ~~it's~~ the court's jurisdiction at any time on the motion of either party or on its own motion.

(B) Whenever the court commits a child to an institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and the institution or agency shall give to the court information concerning the child ~~which~~ that the court may require. Counsel of record, if any, must be notified by the court of an adjudication under this section, and in the event there is no counsel of record, the child or the child's parents or guardian must be notified of the adjudication by regular mail from the court to the last address of the child or the child's parents or guardian.

(C) No adjudication by the court of the status of a child is a conviction, nor does the adjudication operate to impose civil disabilities ordinarily resulting from conviction, nor may a child be charged with crime or convicted in a court, except as provided in Section 63-19-1210(6). The disposition made of a child or any evidence given in court does not disqualify the child in a future civil service application or appointment."

SECTION 35. Article 13, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1415. (A) Each Circuit Solicitor may operate one or more specialty treatment court programs, such as a Juvenile Drug Court or a Juvenile Mental Health Court, if authorized by the South Carolina Supreme Court.

(B) Such specialty treatment court programs are to be operated in accordance with national guidelines and evidence based research.

(C) When a child is charged with an offense which places him under the jurisdiction of the family court and the child has substance abuse or mental health issues, the child may be referred to a specialty treatment court program. Upon successful completion of the specialty treatment court program, the proceedings in the family court must be dismissed and the record of the child's offenses for which the child participated in the program must be automatically expunged at no charge to the child.

(D) The participation in the specialty treatment court program shall be voluntary and a child must not be ordered to participate in such program against his will."

SECTION 36. Section 63-19-1440 of the 1976 Code as last amended by Act No. 268 of 2016 is amended to read:

"Section 63-19-1440.(A) A child, after the child's twelfth birthday and before the child's eighteenth birthday or while under the jurisdiction of the family court for disposition of ~~an~~ a criminal offense that occurred prior to the child's eighteenth birthday, or for conduct that is a violation of probation or an act of contempt of court where the prior order of probation or court order arose from an adjudication for a criminal offense, may be committed to the custody of the Department of Juvenile Justice which shall arrange for placement in a suitable corrective environment. Children under the age of twelve years may be committed ~~only~~ to the custody of the department which shall arrange for placement in a suitable corrective environment other than institutional confinement. ~~No~~ A child under the age of eighteen years may not be committed or sentenced to any other penal or correctional institution of this State.

(B) A child may be committed to the custody of the Department of Juvenile Justice as provided below if:

(1) the child has a current adjudication for an offense which would be an A, B, C, or D felony if committed by an adult;

(2) the child has a current adjudication for an offense which would be a misdemeanor if committed by an adult and one or more of the following apply:

(a) the current adjudicated offense involved the use of a firearm, as defined in section 16-23-490(D); or

(b) the child has had at least one prior adjudication for an offense that would be a felony if committed by an adult and at least three other prior adjudications for a delinquent act; or

(3)(a) the child is petitioned for an offense which would be a felony if committed by an adult;

(b) the child is adjudicated for an offense which is a lesser included offense to the petitioned felony offense; and

(c) the parties agree that a commitment is in the child's best interest.

In any case in which the court commits the child to the custody of the department, the court shall issue individualized written findings as to why a less restrictive disposition option would not adequately protect the public or rehabilitate the child. For the purposes of this section, an adjudication is considered a prior adjudication only if the date of the commission of the subsequent offense or delinquent act occurred after the imposition of the sentence for the prior offense or delinquent act.

(C) A child must not be committed to the Department of Juvenile Justice for a status offense or any violation of a court order related to a status offense. A child who is determined by the court to have violated the conditions of probation set forth by the court in an order issued as a result of the child's adjudication of delinquency for a status offense may not be committed to the Department of Juvenile Justice.

(D) All commitments to the custody of the Department of Juvenile Justice for delinquency as opposed to the conviction of a specific crime may be made only for the reasons and in the manner prescribed in Sections 63-3-510, 63-3-520, 63-3-580, 63-3-600, 63-3-650, and this chapter, with evaluations made and proceedings conducted only by the judges authorized to order commitments in this section. When a child is committed to the custody of the department, ~~commitment must be for~~ the court must order:

(1) an indeterminate sentence, not extending beyond the twenty-second birthday of the child unless sooner released by the department, ~~or~~

(2) ~~for~~ a determinate commitment sentence not to exceed ninety days~~.~~, or

(3) if the child is adjudicated delinquent for an offense which provides for a maximum term of imprisonment of fifteen years or more if committed by an adult, the court may order the child committed for a determinate sentence not to exceed one hundred eighty days.

If a child is subject to a disposition order for more than one adjudicated offense, the child may not be committed for consecutive determinate commitment sentences when the total length of the determinate commitment would be for longer than the minimum parole guideline as established by the release authority, pursuant to Article 17 of this Title, if the child were to be committed to the Department of Juvenile Justice for an indeterminate period of time. A child adjudicated delinquent for a violation of a probation order or held in contempt of court for a violation of a court order related to a misdemeanor or felony offense must not receive an indeterminate commitment sentence but may receive a determinate commitment sentence not to exceed seventy-two hours, when the child has at least one prior adjudication for a probation violation or contempt of court. Prior to the issuance of a determinate commitment sentence of up to seventy-two hours for a violation of probation or contempt of court, the court must make a finding on the record that less restrictive alternatives have been considered and are unavailable or inappropriate or that the child has already been ordered to comply with a less restrictive alternative sanction but failed to comply with the sanction.

~~(C)~~(E)(1) The court, before committing a child as a delinquent ~~or as a part of a sentence including commitments for contempt~~, shall order a community evaluation or temporarily commit the child to the Department of Juvenile Justice for not more than ~~forty-five~~ thirty days for evaluation, subject to the exceptions listed below. A community evaluation is equivalent to a residential evaluation, but it is not required to include all components of a residential evaluation. However, in either evaluation the department shall make a recommendation to the court on the appropriate disposition of the case and shall submit that recommendation to the court before final disposition. ~~The department is authorized to allow any child adjudicated delinquent for a status offense, a misdemeanor offense, or violation of probation or contempt for any offense who is temporarily committed to the department's custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child must not be conducted because~~

(2) The court shall only order an evaluation if the child is eligible for commitment pursuant to Section 63-19-1440(B). There is a presumption for a community evaluation. The court may order a residential evaluation for the child in the custody of the Department only if the Court finds that the child presents an unreasonable flight or public safety risk to his home community. The court shall issue individualized written findings why a community evaluation with additional supervision measures arranged by the Department of Juvenile Justice would not adequately protect the public or reasonably ensure the child's presence at a dispositional hearing. The court also may commit a child to the Department of Juvenile Justice for a residential evaluation if the court finds at a contempt hearing that the child willfully failed to cooperate with or successfully complete a community evaluation ordered pursuant to this section.

(3) The court may waive in writing the evaluation of the child and proceed to issue final disposition in the case if the child:

~~(1)~~ (a) has previously received a residential evaluation or a community evaluation and the evaluation is available to the court;

~~(2)~~ (b) has been within the past year temporarily or finally discharged or conditionally released for parole from a correctional institution of the department, and the child's previous evaluation or other equivalent information is available to the court; or

~~(3)~~ (c) receives a determinate commitment sentence not to exceed ninety days.

~~(D)~~(F) When a ~~juvenile~~ child is adjudicated delinquent or convicted of a crime or has entered a plea of guilty or nolo contendere in a court authorized to commit to the custody of the Department of Juvenile Justice, the ~~juvenile~~ child may be committed for an indeterminate period until the ~~juvenile~~ child has reached age twenty-two or until sooner released by the releasing entity or released by order of a judge of the Supreme Court or the circuit court of this State, rendered at chambers or otherwise, in a proceeding in the nature of an application for a writ of habeas corpus. A ~~juvenile~~ child who has not been paroled or otherwise released from the custody of the department by the ~~juvenile's~~ child's nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. If not sooner released by the releasing entity, the ~~juvenile~~ child must be released by age twenty-two according to the provisions of the ~~juvenile's~~ child's commitment; however, notwithstanding the above provision, any ~~juvenile~~ child committed as an adult offender by order of the court of general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.

~~(E)~~(G) A ~~juvenile~~ child committed to the Department of Juvenile Justice following an adjudication for a violent offense contained in Section 16-1-60 or for the offense of assault and battery of a high and aggravated nature, who has not been paroled or released from the custody of the department by his eighteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. A ~~juvenile~~ child who has not been paroled or released from the custody of the department by his nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections at age nineteen. If not released sooner by the Board of Juvenile Parole, a ~~juvenile~~ child transferred pursuant to this subsection must be released by his twenty-second birthday according to the provisions of his commitment. Notwithstanding the above provision, a ~~juvenile~~ child committed as an adult offender by order of the court of general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.

~~(F) Notwithstanding subsections (A) and (E), a child may be committed to the custody of the Department of Juvenile Justice or to a secure evaluation center operated by the department for a determinate period not to exceed ninety days when:~~

~~(1) the child has been adjudicated delinquent by a family court judge for a status offense, as defined in Section 63-19-20, excluding truancy, and the order acknowledges that the child has been afforded all due process rights guaranteed to a child offender;~~

~~(2) the child is in contempt of court for violation of a court order to attend school or an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 63-19-20; or~~

~~(3) the child is determined by the court to have violated the conditions of probation set forth by the court in an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 63-19-20 including truancy.~~

~~Orders issued pursuant to this subsection must acknowledge:~~

~~(a) that the child has been advised of all due process rights afforded to a child offender; and~~

~~(b) that the court has received information from the appropriate state or local agency or public entity that has reviewed the facts and circumstances causing the child to be before the court.~~

~~(G)~~(H) A child committed under this section may not be confined with a child who has been determined by the department to be violent.

~~(H)~~(I) After having served at least two-thirds of the time ordered by a court, a child committed to the Department of Juvenile Justice for a determinate period pursuant to this section may be released by the department prior to the expiration of the determinate period for 'good behavior' as determined by the department. ~~The court, in its discretion, may state in the order that the child is not to be released prior to the expiration of the determinate period ordered by the court.~~

~~(I)~~(J) ~~Juveniles~~ Children detained in any temporary holding facility or juvenile detention center, short-term alternative placement or its equivalent, or who are temporarily committed for evaluation to a Department of Juvenile Justice evaluation center for the offense for which they were subsequently committed by the family court to the custody of the Department of Juvenile Justice shall receive credit toward their parole guidelines, if indeterminately sentenced, or credit toward their date of release, if determinately sentenced, for each day they are detained in or temporarily committed to any secure pre-dispositional facility, center, or program."

SECTION 37. Section 63-19-1450(A) of the 1976 Code is amended to read:

"(A)(1) No ~~juvenile~~ child may be committed to an institution under the control of the Department of Juvenile Justice who is seriously handicapped by mental illness or ~~retardation~~ intellectual disability.

(a) The Family Court may order an evaluation for a determination of serious mental illness or intellectual disability sua sponte or upon a motion of any party involved with the case or upon a recommendation from the Department of Juvenile Justice pursuant to Section 44-24-150(A) and (B) or Section 44-20-450.

(b) Upon the return of the evaluation the court must hold a hearing to determine whether to proceed pursuant to Section 44-24-150(C), Section 44-20-450 or under Title 63 to determine if the child meets the definition of seriously handicapped by mental illness or intellectual disability and whether the child must be committed to the supervision of the Department of Mental Health or the Department of Disabilities and Special Needs. In making the determination the court shall consider, in addition to any evaluation ordered by the court or requested by the parties, the child's past mental health, disability services, special education or similar records provided by any of the parties to determine if this section applies.

(2) If, after a ~~juvenile~~ child is referred to the ~~Reception and Evaluation Center~~ custody of the Department of Juvenile Justice, it is determined that the ~~juvenile~~ child is mentally ill, as defined in Section 44-23-10, or a person with intellectual disability to an extent that the ~~juvenile~~ child could not be properly cared for in its custody, the department through the voluntary admission process or by instituting necessary legal action may accomplish the transfer of the ~~juvenile~~ child to another state agency which in its judgment is best qualified to care for the ~~juvenile~~ child in accordance with the laws of this State. This legal action pursuant to Section 63-3-510(A)(2) must be brought in the ~~juvenile's~~ child's resident county. The department shall establish standards with regard to the physical and mental health of ~~juveniles~~ children whom it can accept for commitment."

SECTION 38. Article 13, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1480. (A) Any case remaining open for twelve months after the date of the disposition shall be reviewed by the court at least annually and closed, unless the court finds by a preponderance of the evidence that the continued provision of services and court involvement are necessary and shall be fruitful to rehabilitate the child or protect the public interest. Upon making a finding that the purposes of this chapter have been met with regard to the child named in the petition, or for such other reason the court may consider appropriate and consistent with the purposes of this chapter, the court may order a case closed. If after the hearing, the court does not close the case, the court may amend earlier dispositional orders when supported by developments since the issuance of such orders. All such findings shall be in writing and shall include the individualized basis upon which those findings were made.

(B) Upon request by the child, the solicitor, or the Department of Juvenile Justice, the court shall also review any case in which the child remains at the Department of Juvenile Justice more than six months after an order of commitment without having been released on parole or having been returned to the Department's custody following revocation of parole, and may amend earlier dispositional orders at such hearings. Successive requests for review shall be granted upon request by the child, the solicitor, or the Department of Juvenile Justice, but the court may deny such requests without a hearing if a review was held less than ninety days prior to receipt of a request for review. Any such request for review by the court shall be decided within forty-five days of the filing of that request. In each instance that the court reviews a case in which the child remains at the Department or remains under the supervision of the Department at the time of review, the child shall be entitled to the assistance of counsel."

SECTION 39. Section 63-19-1810(A) of the 1976 Code is amended to read:

"(A) The release and revocation of release of ~~juveniles~~ children adjudicated delinquent and committed to the department must be determined by:

(1) the department for ~~juveniles~~ children adjudicated delinquent and committed ~~after March 31, 2007,~~ for an indeterminate period for ~~a status offense or~~ a misdemeanor, other than assault and battery of a high and aggravated nature or assault with intent to kill, and for ~~juveniles~~ children who have violated probation for ~~a status offense or~~ a misdemeanor, other than assault and battery of a high and aggravated nature or assault with intent to kill;

(2) the Board of Juvenile Parole for ~~juveniles~~ children adjudicated delinquent and committed for an offense other than an offense provided for in item (1)."

SECTION 40. Section 63-19-1820 of the 1976 Code is amended to add an appropriately lettered new subsection to read:

"( ) The releasing entity shall ensure that length of stay guidelines are based on evidence-based best practices and that the balance of public safety, personal accountability, and competency development are accounted for in length of stay decisions and plans. The projected release date for a committed child must be based on the severity of the committing offense and the child's risk for reoffending. The actual release date may take into consideration other factors, including the child's progress in treatment and behavior during commitment."

SECTION 41. Section 63-19-1835 of the 1976 Code is amended to read:

"Section 63-19-1835. (A) The department may grant up to a ten-day reduction of the probationary or parole term to probationers and parolees who are under the department's supervision for each month they are compliant with the terms and conditions of their probation or parole order.

(B) Except for an alleged community safety violation, in response to an alleged technical violation of the terms and conditions of a child's probationary or parole term the department must serve on the child a notice of administrative sanctions as an alternative to pursuing a probation violation or parole revocation. Prior to implementation of administrative sanctions, the child and the child's parent or guardian must agree in writing to the additional conditions set forth in the notice of administrative sanctions. Once the notice of administrative sanctions is signed, these additional conditions are considered to be incorporated as part of the original probation or parole order, and the department shall file a copy of the notice of administrative sanctions with the court or parole authority. The criteria for administering structured, community-based administrative sanctions shall be established by policy of the department. The department shall delineate in the policy a listing of administrative sanctions for the most common types of supervision violations including, but not limited to: failure to report; failure to pay restitution; failure to participate in a required program or service; failure to comply with mandatory school attendance order or order to refrain from engaging in misconduct resulting in school disciplinary referrals; failure to complete community service; failure to follow curfew or the conditions of electronic monitoring; failure to successfully complete an alternative placement program; and failure to refrain from the use of alcohol or controlled substances. The sanctions shall consider the severity of the current violation, the child's previous juvenile record, the number and severity of previous supervision violations, the child's risk and needs assessment, the child's age and developmental level, the child's mental health diagnosis or other special needs, the extent to which administrative sanctions were imposed for previous violations, and other relevant factors. The department, in determining the administrative sanctions to be served on a child, shall ascertain the availability of community-based programs and treatment options including, but not limited to: inpatient and outpatient substance abuse treatment facilities, individual and family counseling, mentoring programs, day or night reporting centers, intensive supervision, electronic monitoring, community service, programs to reduce recidivism, and other community-based options consistent with evidence-based best practices. Nothing in this section precludes the department from responding immediately to an alleged community safety violation by initiating violation proceedings with the appropriate authority."

SECTION 42. Section 63-19-2020(E) of the 1976 Code is amended to read:

"(E)(1) The department must notify the principal of a school or the administration of the college or university in which a child is enrolled, intends to be enrolled, or was last enrolled upon final disposition of a case in which the child is charged with any of the following offenses:

(a) a violent crime, as defined in Section 16-1-60;

(b) a crime in which a weapon, as defined in Section 59-63-370, was used;

(c) ~~assault and battery against school personnel, as defined in Section 16-3-612;~~

~~(d)~~ assault and battery of a high and aggravated nature or assault and battery in the first or second degree committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity; or

~~(e)~~(d) distribution or trafficking in unlawful drugs, as defined in Article 3, Chapter 53 of Title 44.

(2) Each school district, college, or university is responsible for developing a policy for ~~schools within the district~~ each school to follow to ensure that the confidential nature of a child offense history and other information received is maintained. This policy must provide for, but is not limited to:

(a) the retention of the child offense history and other information relating to the child offense history in the child's school disciplinary file or in some other confidential location;

(b) the destruction of the child offense history upon the child's completion of secondary school, the completion or withdrawal from the college or university, or upon reaching twenty one years of age; and

(c) limiting access to the child's school disciplinary file to school personnel. This access must only occur when necessary and appropriate to meet and adequately address the educational needs of the child."

SECTION 43. Section 63-19-2030(E) of the 1976 Code is amended to read:

"(E)(1) Incident reports in which a child is the subject are to be provided to the victim of a crime pursuant to Section 16-3-1520.

(2) Incident reports, including information identifying a child, must be provided by law enforcement to the principal of the school, or the administration of the college or university in which the child is enrolled when the child has been charged with any of the following offenses:

~~(1)~~(a) a violent crime, as defined in Section 16-1-60;

~~(2)~~(b) an offense that would carry a maximum term of imprisonment of fifteen years or more if committed by an adult;

~~(3)~~(c) a crime in which a weapon, as defined in Section 59 63 370, was used;

~~(4) assault and battery against school personnel, as defined in Section 16-3-612;~~

~~(5)~~(d) assault and battery of a high and aggravated nature or assault and battery in the first or second degree committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity; or

~~(6)~~(e) distribution or trafficking in unlawful drugs, as defined in Article 3, Chapter 53, ~~of~~ Title 44.

(3) Incident reports involving other offenses must be provided upon request of the principal or the president of the college or university. This information must be maintained by the principal or the president of the college or university in the manner set forth in Section 63-19-2020(E) and must be forwarded with the child's permanent school records if the child transfers to another school or school district.

(4) Any disclosures made pursuant to subitem (E)(2) must include language clarifying that the child is innocent until proven guilty, and that once the charges are finally adjudicated by the family court, the school may make school assignment decisions based only on the adjudication and not on pending charges.

(5) If law enforcement has made a disclosure pursuant to Section 63-19-2030(E), it must supplement that notification with timely notification of any dismissal or reduction of any of the notified charges."

SECTION 44. Sections 63-19-2050(A) and (C) of the 1976 Code as last amended by Act No. 254 of 2018, are further amended to read:

"(A)(1) A person who has been taken into custody for, charged with, or adjudicated delinquent for having committed a ~~status offense or a~~ nonviolent crime, as defined in Section 16-1-70, may petition the court for an order expunging all official records relating to:

(a) being taken into custody;

(b) the charges filed against the person;

(c) the adjudication; and

(d) the disposition.

(2) A person may not petition the court if the person has a prior adjudication for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult."

"(C)(1) ~~If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense, the court shall grant the expungement order. If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed multiple status offenses, the court may grant an expungement order for the multiple status offenses.~~ All official records relating to the taking into custody, the charges filed, the adjudication, and the disposition for committing a status offense, as defined in Section 63-19-20, must be expunged subject to eligibility when the person has reached the age of eighteen. The expungements must occur if the person has no family court delinquency cases pending or family court delinquency sentences to be completed, or as soon thereafter once the person has completed the sentence for any pending cases, the service of any pending dispositional sentences imposed by the family court including probation or parole, or upon the final conclusion of any pending case in the family court if there is a dismissal, a finding of no delinquency, or no sentence is imposed. The expungements must occur after appropriate eligibility verifications upon the earliest of the following:

(a) after notice or written request by the eligible child;

(b) after a regular quarterly system-wide check of children in the system eligible to receive an expungement; or

(c) if technology allows within a jurisdiction, the review for eligibility must occur automatically upon each eligible child's eighteenth birthday.

(2) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a nonviolent crime, as defined in Section 16-1-70, the court may grant the expungement order. For the purpose of this section, any number of offenses for which the individual received youthful offender sentences at a single sentencing proceeding for offenses that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes.

(3) The court shall not grant the expungement order unless the court finds that the person is at least eighteen years of age, has successfully completed any dispositional sentence imposed, has not been subsequently adjudicated for or convicted of any criminal offense, and does not have any criminal charges pending in family court or general sessions court. If the person was found not guilty in an adjudicatory hearing in the family court or the charge was dismissed, the court shall grant the expungement order regardless of the person's age and the person must not be charged a fee for the expungement. An adjudication for a violent crime, as defined in Section 16-1-60, must not be expunged."

SECTION 45. Section 63-19-2050 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) Notwithstanding any other provision of law, an individual who is qualified to petition for record destruction under this section may not be charged a fee to petition for or obtain an order for record destruction, or for any part of the process for adjudicating such a petition."

SECTION 46. Article 19, Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Section 59-18-1970. (A) For purposes of this section, 'a student who has experienced a disruption in the student's education' means a student who experiences one or more changes in public school or school district enrollment during a single school year as the result of:

(1) homelessness as defined in the federal McKinney Vento Homeless Assistance Act and as determined by the public school or school district;

(2) adjudication as:

(a) a victim of child abuse or neglect, pursuant to Chapter 7, Title 63; or

(b) having committed a status offense or an act which, if committed by an adult, would be a crime, pursuant to Chapter 19 of Title 63; or

(3) placement in a mental health treatment facility or habilitation program for developmental disabilities.

(B) If a student who has experienced a disruption in the student's education transfers to a new public school or school district, the receiving public school or school district shall communicate with the sending public school or school district within two business days of the student's enrollment. The sending public school or school district shall provide the receiving public school or school district with any requested records within two business days of having received the receiving public school's or school district's communication.

(C) A student who has experienced a disruption in the student's education because of transferring to a new public school as the result of circumstances set forth in this section shall have:

(1) priority placement in classes that meet state graduation requirements;

(2) timely placement in elective classes that are comparable to those in which the student was enrolled at the student's previous public school or schools as soon as the public school or school district receives verification from the student's records;

(3) equal access to participation in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;

(4) timely assistance and advice from counselors to improve the student's college or career readiness; and

(5) all special education services to which the student is entitled."

SECTION 47. Article 19, Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Section 59-18-1980. (A) As used in this section, 'involved in the juvenile justice system' means a student who has been referred to the Department of Juvenile Justice or the family court due to allegations that the student has committed a delinquent or status offense and voluntary or involuntary conditions have been imposed on the student, including a student who is participating in a diversion program, is under a probation order, is currently supervised by the Department of Juvenile Justice, or has recently entered or left a juvenile or criminal justice placement or is on supervised release or parole.

(B) Each school district and charter school authorized by the Charter School Board or a local school board shall designate an individual to serve as a point of contact for students involved in the juvenile justice system. Charter schools authorized by school districts may use the district's point of contact. Multiple school districts may share a single designated point of contact with approval from the Department of Education and from the Department of Juvenile Justice.

(C) For students transferring into the school district or charter school, the point of contact person shall be responsible for:

(1) ensuring that a student is immediately enrolled regardless of whether the records normally required for enrollment are produced by the last school the student attended or by the student;

(2) ensuring that the enrolling school communicates with the last school attended by a transferring student to obtain relevant academic and other records within two business days of the student's enrollment;

(3) ensuring that the enrolling school performs a timely transfer of credits that the student earned in the last school attended; and

(4) collaborating with the education program staff in a juvenile or criminal justice placement, the child, and the child's parent, guardian, or other legal educational decision maker to develop and implement a plan for assisting the transition of a student to the school district or charter school authorized by the department to minimize disruption to the student's education.

(D) For students transferring out of the school district or charter school authorized by the department, the point of contact person shall be responsible for providing all records to the new school within two business days of receiving a request from the receiving school.

(E) For students involved in the juvenile justice system, the point of contact person shall be responsible for:

(1) ensuring that a student has equal opportunity to participate in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;

(2) ensuring that a student in high school receives timely and ongoing assistance and advice from counselors to improve the student's college and career readiness;

(3) ensuring that a student receives all special education services and accommodations to which the student is entitled under state and federal law;

(4) identifying school staff at each school site who can ensure that students are appropriately supported throughout their enrollment;

(5) supporting communication among the school; the Department of Social Services; the student; the student's parent or guardian; the student's educational decision maker appointed by the children's court; caregivers; and other supportive individuals that the student identifies to ensure that the responsibilities listed in this subsection are implemented; and

(6) ensuring that other school staff and teachers have access to training and resources about the educational challenges and needs of system-involved youth, including trauma-informed practices and the impact of trauma on learning.

(F) The Department of Social Services shall notify a school when a student in the school enters foster care or a student in foster care enrolls in another school.

(G) The student or the student's educational decision maker may notify a school that the student is involved in the juvenile justice system to obtain support and services from the point of contact."

SECTION 48. Section 59-24-60 of the 1976 Code is amended to read:

"Section 59-24-60. In addition to other provisions required by law or by regulation of the State Board of Education, school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which ~~may result or~~ if committed by an adult would be a felony or a crime punishable by a maximum sentence of five years or more of incarceration or which results in ~~injury or~~ serious ~~threat of~~ injury to the person or to another person ~~or his property~~ as defined in local board policy."

SECTION 49. Section 59-63-210 of the 1976 Code is amended to read:

"Section 59-63-210. (A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any ~~crime~~ act which if committed by an adult would be a felony or a crime punishable by a maximum term of imprisonment of five years or more, any violation related to a threat of violence to the school or any person at the school, any act for which there a victim who attends the school who has a reasonable fear for his safety, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. If the action by the district board of trustees is based on conduct by the student that occurred outside of school or school-sanctioned or sponsored activity, such action is permitted only when the conduct at issue amounts to a violent offense as defined in Section 16-1-60 or resulted in moderate or great bodily injury. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B)."

SECTION 50. Section 59-63-1320 of the 1976 Code is amended to read:

"Section 59-63-1320. Eligible alternative school programs shall be provided for, but not limited to, students in grades 6-12 as follows:

(1) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the attention and assistance beyond that of a traditional program as established by the academic history of the student, ~~including the student's academic plan as required in Section 59-18-500,~~ and following other policies and procedures for documenting need established by the district board of trustees.

(2) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the program due to habitual exhibitions of disruptive behavior in violation of the student conduct policies and behavior codes approved by the school board of trustees.

Districts must establish clear guidelines and procedures for the referral of any student into an alternative school program and before a decision is made to assign a student to an alternative school program, a determination must be made that the written and distributed academic and disciplinary policies of the district have been followed.

(3) Students placed in an alternative school program by the district board of trustees as an option to suspension or expulsion or by the dispositive order of a family court judge, with the consent of the local board of trustees. However, before a student may be placed in an alternative school program, a determination must be made by the local board that the written and distributed disciplinary policy of the district has been followed. Districts must establish clear guidelines and procedures for the placement of any student into an alternative school program and at a minimum they shall prescribe due process procedures for placement actions.

(4) When a child who has been enrolled in a Department of Juvenile Justice school district leaves the Department's school district and enrolls or re-enrolls in a school district, the district must not require that student to attend alternative school programs unless:

(a) a student is referred for voluntary attendance at the alternative school program and an intervention team, including parent or guardian and child, agrees such placement is appropriate;

(b) an intervention assessment reveals an imminent threat of injury or a likelihood of serious misconduct that exceeds routine discipline matters will occur if the child remains or reenrolls at his assigned school; or

(c) if the child or the child's parent or guardian objects to the placement in an alternative school, a due process hearing must be held by the district within ten business days and there must be a determination by the hearing officer that the student would be better served in the alternative setting based on clear guidelines and procedures for placement established by the school district.

(5) When students are being considered for placement in an alternative school program, districts must consider the requirements of the Federal Individuals with Disabilities Education Act (IDEA). If a child with a disability for purposes of the IDEA who has been in the custody of the Department of Juvenile Justice leaves the Department's custody and enrolls or re-enrolls in a school district, the district must hold a team meeting to determine on an individualized basis the child's most appropriate educational placement.

(6) If a student placed by the board of trustees in an alternative school program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, information concerning the student's placement in an alternative school program. Upon review of the information, the district in which the student enrolls may continue an alternative education program placement or may allow the student to attend regular classes without completing the period of the placement."

SECTION 51. Sections 63-19-2420 and 63-19-2430 are repealed.

SECTION 52. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections to the subject of juvenile justice reform as recommended by the Senate Select Committee on Raise the Age. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 53. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 54. This act takes effect upon approval by the Governor.

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