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A BILL

TO AMEND CHAPTER 3, TITLE 20, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 20-3-165, RELATING TO CONTACT BETWEEN A CHILD AND EACH PARENT, SO AS TO REQUIRE PARENTS TO PROVIDE EACH OTHER WITH ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, AND OTHER ELECTRONIC COMMUNICATION INFORMATION WITHIN TWENTY-FOUR HOURS, TO DEFINE ELECTRONIC COMMUNICATION, AND TO ENCOURAGE REASONABLE COMMUNICATIONS BETWEEN A CHILD AND HIS OR HER PARENTS IN THE FORM OF TELEPHONE, ELECTRONIC MAIL, AND OTHER ELECTRONIC COMMUNICATION IF REASONABLY AVAILABLE, AND TO PROVIDE THAT THE COURT SHALL DECIDE WHETHER EQUIPMENT FOR ELECTRONIC COMMUNICATION IS REASONABLY AVAILABLE IF THE PARTIES CANNOT AGREE; TO AMEND SECTION 20-7-30 SO AS TO DEFINE VISITATION AND ELECTRONIC COMMUNICATION; TO AMEND SUBARTICLE 1, ARTICLE 3, CHAPTER 7, TITLE 20, BY ADDING SECTION 20-7-108, RELATING TO PARENT CHILD VISITATION, SO AS TO PERMIT A COURT TO GRANT REASONABLE TIME FOR ELECTRONIC COMMUNICATION AS DETERMINED BY THE COURT AT REASONABLE HOURS BETWEEN A PARENT AND A CHILD WHEN THE CHILD IS NOT IN THE PARENT'S PHYSICAL CUSTODY, TO PROVIDE THAT ELECTRONIC COMMUNICATION SUPPLEMENTS AND DOES NOT REPLACE ACTUAL CUSTODY OR VISITATION WITH A CHILD, TO PROVIDE THAT THE AMOUNT OF ELECTRONIC COMMUNICATION SHALL NOT BE A FACTOR IN THE CALCULATION OF CHILD SUPPORT, AND MAY NOT BE USED AS A FACTOR TO JUSTIFY A RELOCATION BY THE CUSTODIAL

1 PARENT OUT OF THE IMMEDIATE AREA, AND TO
2 PROVIDE THAT SUPERVISED VISITATION SHALL
3 INCLUDE ELECTRONIC COMMUNICATIONS BETWEEN A
4 PARENT AND CHILD; TO AMEND SECTION 20-7-420,
5 RELATING TO THE JURISDICTION OF THE FAMILY
6 COURT, SO AS TO INCLUDE REASONABLE ELECTRONIC
7 COMMUNICATIONS IN VISITATION WITH
8 GRANDPARENTS OF A MINOR CHILD AND SIBLING
9 VISITATION; AND TO AMEND SECTION 20-7-786,
10 RELATING TO DEFINITIONS, SO AS TO INCLUDE
11 REASONABLE ELECTRONIC COMMUNICATION IN THE
12 DEFINITION OF CUSTODIAL DETERMINATION.

13

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

16

17 SECTION 1. Chapter 3, Title 20 of the 1976 Code is amended by
18 adding:

19

20 “Section 20-3-165. (A) Absent a showing by a preponderance
21 of evidence of real harm or substantiated potential harm to the
22 child:

23 (1) it is in the child’s best interests to have frequent,
24 meaningful, and continuing access to each parent;

25 (2) each parent is entitled to and responsible for frequent,
26 meaningful, and continuing access with his child consistent with
27 the child’s best interests; and

28 (3) it is in the best interests of the child to have both parents
29 actively involved in parenting the child.

30 (B) Each parent must:

31 (1) provide the other with his current address and telephone
32 number, electronic mail address, and any other access information
33 related to instant messaging, video conferencing, and other wired
34 or wireless technologies over the Internet or other communication
35 media to supplement in-person visits between a noncustodial
36 parent and a child or between a child and the custodial parent when
37 the child is staying with the noncustodial parent. Electronic
38 communication is designed to supplement, rather than replace,
39 in-person parent-time;

40 (2) permit and encourage, during reasonable hours and for
41 reasonable duration, reasonable communications with the child in
42 the form of telephone, electronic mail, and other electronic
43 communication if the equipment is reasonably available. If the

1 parties cannot agree on whether the equipment is reasonably
2 available, the court shall decide whether the equipment for
3 electronic communication is reasonably available, taking into
4 consideration:

- 5 (a) the best interests of the child;
- 6 (b) each parent’s ability to handle any additional expenses
7 for virtual parent-time; and
- 8 (c) any other factors the court considers material.”

9
10 SECTION 2. Section 20-7-30 of the 1976 Code is amended to
11 read:

12
13 “Section 20-7-30. When used in this chapter and unless
14 otherwise defined or the specific context indicates otherwise:

- 15 (1) ‘Child’ means a person under the age of eighteen.
- 16 (2) ‘Court’ means the family court.
- 17 (3) ‘Guardian’ means a person who legally has the care and
18 management of a child.
- 19 (4) ‘Judge’ means the judge of the family court.
- 20 (5) ‘Parent’ means biological parent, adoptive parents,
21 step-parent, or person with legal custody.
- 22 (6) ‘Status offense’ means any offense which would not be a
23 misdemeanor or felony if committed by an adult, such as, but not
24 limited to, incorrigibility (beyond the control of parents), truancy,
25 running away, playing or loitering in a billiard room, playing a
26 pinball machine or gaining admission to a theater by false
27 identification.
- 28 (7) ‘Child caring facility’ means a campus with one or more
29 staffed residences and with a total population of twenty or more
30 children who are in care apart from their parents, relatives, or
31 guardians on a continuing full-time basis for protection and
32 guidance.
- 33 (8) ‘Foster home’ means a household of one or more persons
34 who are licensed or approved to provide full-time care for one to
35 five children living apart from their parents or guardians.
- 36 (9) ‘Residential group care home’ means a staffed residence
37 with a population fewer than twenty children who are in care apart
38 from their parents, relatives, or guardians on a full-time basis.
- 39 (10) ‘Visitation’ means in-person time spent between a child
40 and his or her parent including any electronic communication.
- 41 (11) ‘Electronic communication’ means time during which a
42 parent or grandparent and his or her child communicate by using
43 communication tools such as the telephone, electronic mail, instant

1 messaging, video conferencing, or other wired or wireless
2 technologies via the Internet, or another medium of
3 communication.”
4

5 SECTION 3. Subarticle 1, Article 3, Chapter 7, Title 20 of the
6 1976 Code is amended by adding:
7

8 “Section 20-7-108. (A) The court may grant a reasonable
9 amount of electronic communication at reasonable hours to either
10 or both parents when the child is not in the parent’s physical
11 custody if the equipment is reasonably available. The court shall
12 decide the reasonable availability of electronic communication
13 equipment.

14 (B) Electronic communication with the child may be used only
15 to supplement a parent’s periods of visitation with the child.
16 Electronic communication may not be used as a replacement or as
17 a substitute for custody or a parent’s period of visitation with the
18 child.

19 (C) The amount of time electronic communication is used shall
20 not be a factor in the calculation of child support.

21 (D) The court may not use the availability of electronic
22 communication as a factor to justify or in support of a relocation
23 by the custodial parent out of the immediate area or State.

24 (E) Any supervised visitation shall include any electronic
25 communication between a child and the supervised parent.”
26

27 SECTION 4. Section 20-7-420(A) of the 1976 Code is amended
28 to read:
29

30 “(A) The family court has exclusive jurisdiction:

31 (1) To hear and determine matters which come within the
32 provisions of the Uniform Reciprocal Enforcement of Support Act.

33 (2) To hear and determine actions:
34 for divorce a vinculo matrimonii, separate support and
35 maintenance, legal separation, and in other marital litigation
36 between the parties, and for settlement of all legal and equitable
37 rights of the parties in the actions in and to the real and personal
38 property of the marriage and attorney’s fees, if requested by either
39 party in the pleadings.

40 (3) To hear and determine actions for and related to the
41 adoption of children and adults.

1 (4) To hear and determine actions for termination of parental
2 rights, whether such action is in connection with an action for
3 adoption or apart therefrom.

4 (5) (Reserved)

5 (6) To hear and determine actions for the annulment of
6 marriage.

7 (7) (Reserved)

8 (8) To hear and determine actions for changing names,
9 whether in connection with a divorce or a separate support and
10 maintenance action or apart therefrom.

11 (9) To hear and determine actions for the correction of birth
12 records.

13 (10) To consent to the enlistment of a minor in the military
14 service or the employment of a minor, if a minor has no one
15 standing in loco parentis to do so.

16 (11) To hear and determine proceedings within the county to
17 compel the support of a spouse or child, whether legitimate or
18 illegitimate.

19 (12) For the protection, guardianship and disposition of
20 neglected or dependent minors in proceedings properly brought
21 before it for the support of a spouse or child.

22 (13) In all cases or proceedings within the county against
23 persons charged with failure to obey an order of the court made
24 pursuant to authority conferred by law.

25 (14) To order support of a spouse or child, or both,
26 irrespective of whether they are likely to become a public charge.

27 (15) To include in the requirements of an order for support
28 the providing of necessary shelter, food, clothing, care, medical
29 attention, expenses of confinement, both before and after the birth,
30 the expense of educating his or her child and other proper and
31 reasonable expenses.

32 (16) To require of persons legally chargeable with the support
33 of a spouse or child, who are possessed of sufficient means or who
34 are able to earn such means, the payment weekly, or at other fixed
35 periods, of a fair and reasonable sum for such support, or as a
36 contribution toward such support, according to the means of the
37 persons so chargeable.

38 (17) To make all orders for support run until further order of
39 the court, except that orders for child support run until the child is
40 eighteen years of age or until the child is married or becomes
41 self-supporting, as determined by the court, whichever occurs first
42 or to provide for child support past the age of eighteen years if the
43 child is in high school and is making satisfactory progress toward

1 completion of high school, not to exceed the nineteenth birthday
2 unless exceptional circumstances are found to exist or unless there
3 is a preexisting agreement or order to provide for child support
4 past the age of eighteen years; and in the discretion of the court, to
5 provide for child support past age eighteen where there are
6 physical or mental disabilities of the child or other exceptional
7 circumstances that warrant the continuation of child support
8 beyond age eighteen for as long as the physical or mental
9 disabilities or exceptional circumstances continue.

10 (18) To make an order for support of a husband or wife and
11 children by his or her spouse, even though he or she may have left
12 the home, in cases where the spouse's conduct or condition or his
13 or her cruel or inhuman behavior made it unsafe or improper for
14 the deserting spouse to continue to live with him or her. Such
15 orders may require either spouse or any other party to the
16 proceeding:

17 ~~A.~~ (a) To stay away from the home or from the other or
18 either spouse or children;

19 ~~B.~~ (b) To permit either spouse to visit the children at stated
20 periods;-

21 ~~C.~~ (c) To abstain from offensive conduct against the other
22 spouse or either of them, or against the children;

23 ~~D.~~ (d) To give proper attention to the care of the home;

24 ~~E.~~ (e) To refrain from acts of commission or omission that
25 tend to make the home not a proper place for the other, or either
26 spouse, or the children.

27 (19) In furtherance of the complete disposition of cases in the
28 jurisdiction of the court, to bring in and make parties to any
29 proceedings pending in the court any person or persons charged
30 with or alleged to be interfering with the marital relationship
31 between a husband and wife, in violation of the law or of the rights
32 of either party to the marriage, or whose presence to the
33 proceedings may be found necessary to a complete determination
34 of the issues therein, or the relief to which the parties thereto, or
35 any of them, may be entitled; and shall have the power to enjoin
36 and restrain such interference and to punish for contempt of court
37 violations of such injunctions or restraining orders.

38 (20) To award the custody of the children, during the term of
39 any order of protection, to either spouse, or to any other proper
40 person or institution.

41 (21) ~~to~~ To determine the manner in which sums ordered paid
42 for support shall be paid and applied, either to a person through the

1 court, through the clerk of court, or through a centralized wage
2 withholding system if required by federal statute or regulation.

3 (22) To require a person ordered to support another to give
4 security by a written undertaking that he will pay the sums ordered
5 by the court for such support and, upon the failure of any person to
6 give such security by a written undertaking when required by order
7 of the court, to punish such person for contempt and, when
8 appropriate, to discharge such undertaking.

9 (23) In lieu of requiring an undertaking, to suspend sentence
10 and place on probation a person who has failed to support another
11 as required by law, and to determine the conditions of such
12 probation and require them to be observed; to revoke such
13 suspension of sentence and probation, where circumstances
14 warrant it; and to discharge a respondent from probation.

15 (24) To release on probation prior to the expiration of the full
16 term a person committed to jail for failure to obey an order of the
17 court, where the court is satisfied that the best interest of the family
18 and the community will be served thereby.

19 (25) To modify or vacate any order issued by the court.

20 (26) To order either before, during or after a hearing a mental,
21 physical and psychiatric examination as circumstances warrant.

22 (27) To exclude the public from the courtroom in a proper
23 case.

24 (28) To send processes or any other mandates in any matter in
25 which it has jurisdiction into any county of the State for service or
26 execution in like manner and with the same force and effect as
27 similar processes or mandates of the circuit courts, as provided by
28 law.

29 (29) To compel the attendance of witnesses.

30 (30) To make any order necessary to carry out and enforce the
31 provisions of this chapter, and to hear and determine any questions
32 of support, custody, separation, or any other matter over which the
33 court has jurisdiction, without the intervention of a jury; however,
34 the court may not issue an order which prohibits a custodial parent
35 from moving his residence to a location within the State unless the
36 court finds a compelling reason or unless the parties have agreed to
37 such a prohibition.

38 (31) To require spouse to furnish support or to be liable for
39 nonsupport, as provided above, if, at the time of the filing of the
40 petition for supports:

41 ~~(A)~~ (a) He is residing or domiciled in the county or when
42 such area is the matrimonial domicile of the parties; or

1 ~~(B)~~ (b) He is not residing or domiciled in the area referred
2 to in subsection ~~(A)~~ (a), but is found therein at such time, provided
3 the petitioner is so residing or domiciled at such time; or

4 ~~(C)~~ (c) He is neither residing or domiciled nor found in
5 such area but, prior to such time and while so residing or
6 domiciled, he shall have failed to furnish such support, or shall
7 have abandoned his spouse or child and thereafter shall have failed
8 to furnish such support, provided that the petitioner is so residing
9 or domiciled at that time.

10 (32) The petitioner need not continue to reside or be
11 domiciled in such area where the cause of action arose, as provided
12 in subitems ~~(A)~~ (a) and ~~(B)~~ (b) of item (31) of this section, if the
13 conduct of the respondent has been such as to make it unsafe or
14 improper for her to so reside or be domiciled, and the petitioner
15 may bring action in the court of the jurisdiction wherein she is
16 residing or has become domiciled.

17 (33) To order periods of visitation for the grandparents of a
18 minor child, to include reasonable electronic communication, as
19 defined in Section 20-7-30, where either or both parents of the
20 minor child is or are deceased, or are divorced, or are living
21 separate and apart in different habitats regardless of the existence
22 of a court order or agreement, and upon a written finding that the
23 visitation rights would be in the best interests of the child and
24 would not interfere with the parent/child relationship. In
25 determining whether to order visitation for the grandparents, the
26 court shall consider the nature of the relationship between the child
27 and his grandparents prior to the filing of the petition or complaint.

28 (34) To order custody with all rights of guardianship as
29 described in Section 21-21-50.

30 (35) To hear and determine actions for protection from
31 domestic abuse.

32 (36) To issue orders compelling public officials and officers
33 to perform official acts under Chapter 7, Title 20, the Children's
34 Code, Chapter 4, Title 20, Protection from Domestic Abuse Act,
35 and Chapter 29, Title 43, Protective Services for Developmentally
36 Disabled and Senile Persons.

37 (37) To appoint guardians ad litem in actions pertaining to
38 custody or visitation pursuant to Section 20-7-1545.

39 (38) To hear and determine an action where either party in his
40 or her complaint, answer, counterclaim, or motion for pendente lite
41 relief prays for the allowance of suit money pendente lite and
42 permanently. In this action the court shall allow a reasonable sum
43 for the claim if it appears well-founded. Suit money, including

1 attorney's fees, may be assessed for or against a party to an action
2 brought in or subject to the jurisdiction of the family court. An
3 award of temporary attorney's fees or suit costs must not be stayed
4 by an appeal of the award.

5 (39) To require the parties to engage in court-mandated
6 mediation pursuant to Family Court Mediation Rules or to issue
7 consent orders authorizing parties to engage in any form of
8 alternate dispute resolution which does not violate the rules of the
9 court or the laws of South Carolina; provided however, the parties
10 in consensual mediation must designate any arbiter or mediator by
11 unanimous consent subject to the approval of the court.

12 (40) To require the parent of a child brought before the court
13 for adjudication of a delinquency matter and agencies providing
14 services to the family to cooperate and participate in a plan
15 adopted by the court to meet the needs and best interests of the
16 child and to hold a parent or agency in contempt for failing to
17 cooperate and participate in the plan adopted by the court. In
18 imposing its contempt powers the Family Court must take into
19 consideration mitigating circumstances including the parent's or
20 legal custodian's participation in the treatment plan, the level of
21 services being offered by the lead and participating agencies, and
22 the level of cooperation by the lead and participating agencies as
23 the court may deem appropriate.

24 (41) To order a person required to pay support under a court
25 order being enforced under Title IV-D of the Social Security Act
26 who is unemployed or underemployed and who is the parent of a
27 child receiving AFDC benefits to participate in an employment
28 training program or public service employment pursuant to
29 regulations promulgated by the department. The Division of Child
30 Support Enforcement of the State Department of Social Services
31 also has jurisdiction under this item in cases under Title IV-D of
32 the Social Security Act brought pursuant to Article 32, Chapter 7,
33 Title 20 of the 1976 Code.

34 (42) To order joint or divided custody where the court finds it
35 is in the best interests of the child.

36 (43) To enforce an administrative subpoena or subpoena
37 duces tecum issued by the Department of Social Services pursuant
38 to Section 20-7-9575 and to enforce fines assessed by the
39 department pursuant to Sections 20-7-9575, 43-5-595(C), and
40 43-5-598(G).

41 (44) To order sibling visitation, to include reasonable
42 electronic communication as defined in Section 20-7-30, where the
43 court finds it is in the best interest of the children.

1 (45) To hear and determine actions concerning control of the
2 person of a minor, including guardianship of the minor.

3 (46) To order custody of a minor child to the de facto
4 custodian under the circumstances specified in Section
5 20-7-1540.”

6
7 SECTION 5. Section 20-7-786 of the 1976 Code is amended to
8 read:

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10 “Section 20-7-786. As used in this subarticle, unless the context
11 clearly indicates otherwise:

12 (1) ‘contestant’ means a person, including a parent, who claims
13 a right to custody or visitation rights with respect to a child;

14 (2) ‘custody determination’ means a court decision and court
15 orders and instructions providing for the custody of a child,
16 including visitation rights and reasonable electronic
17 communication, as defined in Section 20-7-30; it does not include
18 a decision relating to child support or any other monetary
19 obligation of any person;

20 (3) ‘custody proceeding’ includes proceedings in which a
21 custody determination is one of several issues, such as an action
22 for divorce or separation, and includes child neglect and
23 dependency proceedings;

24 (4) ‘decree’ or ‘custody decree’ means a custody determination
25 contained in a judicial decree or order made in a custody
26 proceeding, and includes an initial decree and a modification
27 decree;

28 (5) ‘home state’ means the state in which the child immediately
29 preceding the time involved lived with his parents, a parent, or a
30 person acting as parent, for at least six consecutive months, and in
31 the case of a child less than six months old the state in which the
32 child lived from birth with any of the persons mentioned. Periods
33 of temporary absence of any of the named persons are counted as
34 part of the six-month or other period;

35 (6) ‘initial decree’ means the first custody decree concerning a
36 particular child;

37 (7) ‘modification decree’ means a custody decree which
38 modifies or replaces a prior decree, whether made by the court
39 which rendered the prior decree or by another court;

40 (8) ‘physical custody’ means actual possession and control of a
41 child;

1 (9) 'person acting as parent' means a person, other than a
2 parent, who has physical custody of a child and who has either
3 been awarded custody by a court or claims a right to custody;

4 (10) 'state' means any state, territory or possession of the United
5 States, the Commonwealth of Puerto Rico and the District of
6 Columbia;

7 (11) 'court' or 'court of this State' means the statewide system
8 of family courts established' pursuant to Sections 14-21-410 et
9 seq.;

10 (12) 'clerk of the court' or 'clerk of the family court' means the
11 clerk of a respective family court or the person in charge of
12 administration of a family court if not designated as clerk of that
13 court."

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15 SECTION 6. This act takes effect upon approval by the Governor
16 and applies to all cases filed on or after that date.

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