

From: Baker, Josh

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Date: 6/5/2012 9:12:26 AM

Subject: DSS Background Checks

Attachments: Crimes Covered by 63-7-2350.docx

Foster Care and Adoption Background Checks.docx

H4473 Crimes Stats.docx

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### 1. Coleman's issues - why is he holding up this bill?

The Senator is concerned that the list of crimes currently in statute is too restrictive and unnecessarily prevents persons from being foster or adoptive parents.

### 2. The current full list?

Below is the existing State statute. See the attached list for a complete list of crimes.

#### **SECTION 63-7-2350.** Restrictions on foster care placements.

(A) No child may be placed in foster care with a person:

- (1) with a substantiated history of child abuse or neglect; or
- (2) who has pled guilty or nolo contendere to or who has been convicted of:
  - (a) an "Offense Against the Person" as provided for in Chapter 3, Title 16;
  - (b) an "Offense Against Morality or Decency" as provided for in Chapter 15, Title 16;
  - (c) contributing to the delinquency of a minor as provided for in Section 16-17-490;
  - (d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;
  - (e) criminal domestic violence, as defined in Section 16-25-20;
  - (f) criminal domestic violence of a high and aggravated nature, as defined in Section 16-25-65;
  - (g) a felony drug-related offense under the laws of this State.

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) This section does not prevent foster care placement when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services.

HISTORY: 2008 Act No. 361, Section 2.

### 3. Coleman's list that he wants taken off with # of "hits" 2009/ 10/ 11/ 12?

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|-----------|--|
| 16-3-410  | Sending or accepting challenge to fight                                    |
| 16-3-420  | Carrying or delivering a challenge to fight                                |
| 16-3-1010 | Failing to remove doors from abandoned airtight containers                 |
| 16-3-1072 | Failing to report medical treatment for gunshot wound                      |
| 16-3-1280 | Knowingly making a false claim or false statement                          |
| 16-3-1340 | Victim's compensation fund, soliciting employment to pursue claim or award |

*In addition, he would like to amend the following crimes to say:*

- |           |  |
|-----------|--|
| 16-3-600  | Assault and Battery where victim was a minor (Domestic abuse not covered for foster care.) |
| 16-3-1085 | Purchase, owning or using body armor by violent offender involving a minor                 |

- 16-15-130 Indecent exposure where victim was a minor
- 16-15-250 Communicating obscene messages to other persons w/o consent (*Some change dealing with texting. We are not sure of the specifics.*)
- 16-15-305 Disseminating, procuring or promoting obscenity (*Some change dealing with texting. We are not sure of the specifics.*)
- 16-15-315 Condition on certain sales for resale or on franchising rights that obscene material be received for resale involving a child where a victim was a minor

**4. If he leaves his name on 4473, what are the consequences for DSS, SLED and Gov? And/or any other agency.**

**CONSEQUENCES:**

The FBI requires state law to authorize DSS background checks when they are fingerprint based, as was pointed out in recent audits of SLED's use of federal databases. SLED has been temporarily allowing DSS to continue current practice, pending a legislative fix.

SLED will have to stop providing DSS with background checks, meaning candidates for adoption will not receive background checks. As foster care law allows for background checks, South Carolina will have a lower standard for adoption than for foster care.

Federal foster care reimbursement requires that these host families receive background checks, so this will also have a fiscal impact to the agency.

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