



COMMITTEE *on* CHILDREN

2024 Annual Report



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Governor Henry D. McMaster
President Thomas C. Alexander
Speaker G. Murrell Smith, Jr.
Members of the General Assembly,



The Joint Citizens and Legislative Committee on Children is pleased to present its 2024 Annual Report. The Committee is charged with identifying and studying key issues affecting South Carolina children and making recommendations to the Governor and General Assembly. The issues covered by the Annual Report arose from testimony at the Committee’s fall public hearings across the state as well as input from constituents, state agencies, and law enforcement, among others.

New threats to children’s safety and well-being emerge every day, particularly online where the line between reality and fiction is rapidly disappearing. This year the Committee learned about predators morphing images of identifiable children onto images of child sexual abuse material and using AI to generate child sexual abuse material. South Carolina children have been harmed, yet these actions are not offenses under state law. While the law will never keep pace with technology, South Carolina’s laws must be updated and enhanced to remain effective in prosecuting those who place children in jeopardy.

The report also addresses challenges facing expectant and new families and services that can support them, such as home visiting programs and maternal health screenings. One of the biggest practical challenges for families is finding and affording quality child care. While the Special Joint Committee on Childcare will address this issue in depth and from a workforce perspective, the Committee summarized the challenges it heard and highlighted state strategies to address these issues.

Thank you to everyone who contributed to the report through your testimony, your data, and your experiences. We look forward to addressing the issues identified by the report with the Governor and the General Assembly. May it serve our children well.

Handwritten signature of Brad Hutto in black ink.

Brad Hutto, Chair

Handwritten signature of Paula Calhoon in black ink.

Paula Calhoon, Vice-Chair

Committee Membership

APPOINTED BY THE PRESIDENT OF THE SENATE

- » **Senator Brad Hutto**, Orangeburg
- » **Senator Katrina F. Shealy**, Lexington
- » **Senator Mike Reichenbach**, Florence

APPOINTED BY THE SPEAKER OF THE HOUSE

- » **Representative Paula Calhoon**, Lexington
- » **Representative Beth E. Bernstein**, Columbia
- » **Representative Raye Felder**, York

APPOINTED BY THE GOVERNOR

- » **Mr. W. Derek Lewis**, Greenville
- » **Mrs. Bronwyn McElveen**, Sumter
- » **Dr. Kay W. Phillips**, Summerville

EX OFFICIO

- » **Dr. Robert Bank**, *Acting Director - Dept. of Mental Health*
- » **Michael Leach**, *Director - Dept. of Social Services*
- » **Constance Holloway**, *Director - Dept. of Disabilities and Special Needs*
- » **Eden Hendrick**, *Director - Dept. of Juvenile Justice*
- » **Ellen Weaver**, *Superintendent of Education*
- » **Dr. Edward Simmer**, *Director - Dept. of Health and Environmental Control*
- » **Robert Kerr**, *Director - Dept. of Health and Human Services*
- » **Sara Goldsby**, *Director - Dept. of Alcohol and Other Drug Abuse Services*
- » **Georgia Mjartan**, *Executive Director - South Carolina First Steps*
- » **Amanda Whittle**, *Director - Dept. of Children's Advocacy*

COMMITTEE STAFF

- » **Shealy Reibold**, Senior Resource Attorney
- » **Morgan Maxwell**, Legislative Resource Attorney
- » **Chase Bailey**, Statistical & Research Analyst

CHILDREN'S LAW CENTER LEADERSHIP, JOSEPH F. RICE SCHOOL OF LAW

- » **L. Michelle Dhunjishah**, Director

2023: Year in Review

JCLCC LEGISLATION ENACTED

In 2023, the Committee on Children sponsored or endorsed the following bills that ultimately became state law:

ACT NO. 9 (S. 299)

- » Added the State Child Advocate as an ex-officio member of the Committee on Children.

ACT NO. 10 (S. 341)

- » Allowed caregivers of disabled children to file guardianship petitions 180 days prior to the child's 18th birthday so it is in effect when the child turns 18.

ACT NO. 17 (H. 3908)

- » Provided six weeks of paid family leave for teachers and school staff due to the birth or adoption of a child.

ACT NO. 23 (S. 342)

- » Added three definitions to the Children's Code: unaccompanied homeless youth, homeless child or youth, and youth at risk of homelessness.

ACT NO. 25 (S. 380)

- » Established guardianship assistance payments for relatives and fictive kin after a court appoints them as a child's legal guardian.

ACT NO. 33 (S. 612)

- » Created a tiered response system for when DSS must begin an investigation of a report alleging child abuse or neglect.

ACT NO. 59 (S. 343)

- » Allowed children and youth to access crisis stabilization units by reducing the statutory minimum age from 18 to 5 years old.

S. 514, H. 3548, H. 3111 INCORPORATED INTO ACT NO. 38

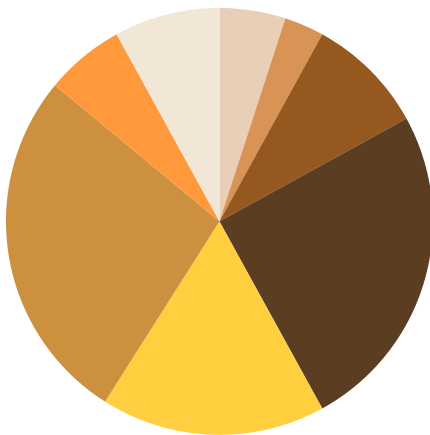
- » H. 3681 encompassed committee bills restricting children's access to tobacco products and tobacco retailer reporting.

2023 PUBLIC HEARINGS

Each fall, the Committee on Children holds public hearings across South Carolina to receive testimony from parents, local stakeholders, and other children’s advocates. These open-forum, town hall-style hearings allow members of the public to attend a meeting closer to their homes and speak directly to committee members about children’s issues. These hearings yield vital information to guide and inform the Committee’s future decisions.

The Committee held five public hearings in 2023—two in Columbia and one each in Charleston, Greenville, and Florence. The Committee heard testimony from 148 speakers on a range of topics: school nutrition, child care workforce issues, child access to firearms and gun safety, mental health services for children, reimbursement rates for therapy providers, education curriculum, water bottle access in schools, fertility preservation for cancer patients, housing instability, and much more. Additionally, 126 people submitted written testimony, totaling 351 pages.

2023 PUBLIC HEARING TESTIMONY TOPICS



- Education - 27%
- Community Programs & Resources - 25%
- Child Health - 17%
- Youth Development & Juvenile Justice - 3%
- Child Safety - 9%
- Childcare - 8%
- Reimbursement Rates - 6%
- Child Welfare - 5%

SCHOOL DISTRICT VACANCY SURVEY

The Committee on Children conducted a survey regarding the vacancy rates for various mental health, behavioral health, therapy, and other professional certified staff (e.g., school mental health professionals, school nurses, etc.). The Committee gathered this data to calculate the number of vacancies in these positions, many of which are not collected at the state level.

The Committee distributed the survey to school districts in January 2023. The Committee received a total of 60 district-level survey responses, including 58 traditional school districts, 1 charter school district, and the South Carolina Department of Juvenile Justice. Additionally, the Committee received 15 school-level responses, including 3 schools from the Limestone Charter Association and 12 schools from the South Carolina Public Charter School District.

Districts identified the following professionals as the greatest need:

1. Speech Therapist
2. Psychologist
3. School Nurse
4. Classroom Teacher
5. Instructional Aide

Districts reported the highest vacancy rates in the following professional roles:

1. Social Worker
2. School Psychologist
3. Mental Health Therapist
4. Behavioral Analyst
5. Speech Therapist

Morphed Pornography of Identifiable Children and Obscene Visual Representations of Child Sexual Abuse

THE ISSUE

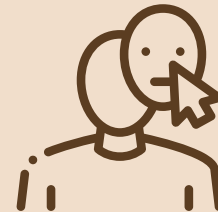
The exponential growth of child sexual abuse material is a local and national issue that challenges law enforcement and legislators to keep pace with new and rapidly changing methods to exploit children. While South Carolina law currently addresses the creation, distribution, and possession of child sexual abuse material involving actual children under its sexual exploitation of a minor statutes, no state statute explicitly prohibits the creation, distribution, or possession of “morphed” pornography of identifiable children (MPIC) or partially or fully computer-generated images of minors in obscene materials.

MPIC

MPIC is created when an identifiable child’s image is pulled from social media or online and morphed onto a pornographic image making it appear as if the child is actually engaged in sexual activity.¹ Advances in artificial intelligence and deepfakes make image and video manipulation readily available and relatively simple in the hands of unskilled users.² Within minutes of downloading widely available apps like Facetune or Face swap, a user can transform an innocent image of a child into a pornographic one that, if released intentionally or unintentionally, will inflict severe emotional and reputational harm on the victim for a lifetime.³

While SC criminalizes the sexual exploitation of minors, statutory language refers to depictions of minors engaging in sexual activity:

“a visual representation depicting a minor engaged in sexual activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.”⁴



Visits to the top 20 deepfake sites increased from **20 million in Jan. 2021** to nearly **60 million by July 2023.**⁵

It is unclear whether a state court would interpret the current statutory language to include images utilizing an identifiable minor’s image while the child was not actually engaged in sexual activity. However, courts in other states have concluded similar language does not include MPIC.⁶

Federal law criminalizes using morphed images of identifiable children in child sexual abuse materials.⁷ However, a lack of resources and exponential growth in these types of images means not all state-level cases are investigated by the FBI or prosecuted by the Department of Justice.⁸ Including MPIC in state law would enable state and local law enforcement as well as solicitors and the Attorney General’s office to investigate and prosecute these crimes.

OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE

In addition to MPIC, law enforcement reports an increase in the number of obscene images where the minor depicted has been partially or fully computer generated or cannot be confirmed to actually exist.⁹ Computer-generated images are not victimless crimes; these images are often created from actual images of child sexual abuse and can normalize “child abuse and [stoke] the appetites of those who seek to sexualize children.”¹⁰ An analysis of multiple studies found 50 to 60 percent of online child sexual offenders self-report prior sexual contact with children.¹¹ Viewing videos of children being sexually abused is “a huge indicator [perpetrators] are likely to conduct hands-on abuse of children.”¹² Obscene images involving child sexual abuse can be found in anime and other mediums as well.¹³

Federal law enforcement successfully prosecutes these offenses under an obscenity statute.¹⁴ Given the expected explosive growth of AI, deepfakes, and their use in generating these images, a state statute would provide sufficient flexibility for state prosecution of these offenses now and as this landscape continues to change.

NATIONAL LANDSCAPE

South Carolina Attorney General Alan Wilson led 50 states and four territories in a letter to Congress asking for federal legislation to protect children from the evolving use of AI in child sexual abuse material and to form a study commission on the issue.¹⁵

Many states are working to address MPIC and AI-generated child sexual abuse material. Florida, Georgia, and Rhode Island amended state law to include offenses involving identifiable minors whose images have been morphed onto pornographic images.¹⁶ Florida, Georgia, Rhode Island, and Connecticut amended their respective child pornography laws to include computer-generated images.¹⁷

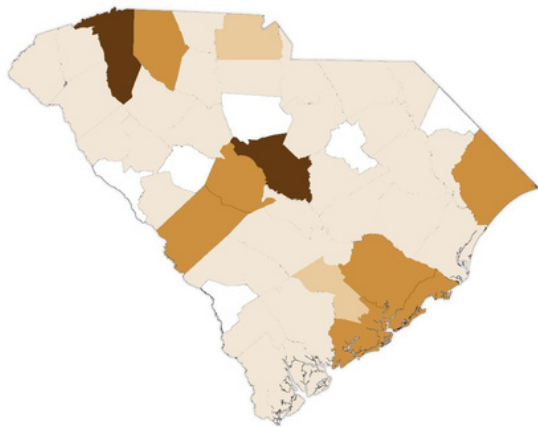
OUR RECOMMENDATIONS

- 1. Pass S.995/H.4973 Morphed Pornography of Identifiable Children, which amends the state’s sexual exploitation of a minor statutes to include morphed images of minors, adds definitions of identifiable minor and morphed image, and adds these offenses as amended to the sex offender registry statute.**
- 2. Pass S.996/H.4972 Obscene Visual Representations of Child Sexual Abuse, which creates a new offense and enables prosecution of offenses involving minors who are partially or fully generated by AI, or have not yet been identified, cannot be identified, or do not exist. The bill adds this offense to the sex offender registry statute.**

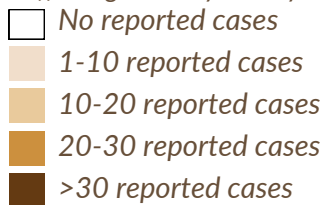
Child Victims of Sex Trafficking

THE ISSUE

Human trafficking preys on South Carolina’s most vulnerable populations, and the number of human trafficking victims in South Carolina continues to grow. In 2023, the South Carolina Law Enforcement Division (SLED) opened a total of 357 human trafficking cases involving 498 victims, including 460 children.¹ Nearly 90% of these cases involved sex trafficking.² Forty out of 46 counties reported trafficking cases in 2023, with Richland, Greenville, Horry, Aiken, Berkeley, Charleston, Lexington, and Spartanburg counties reporting the most cases.³



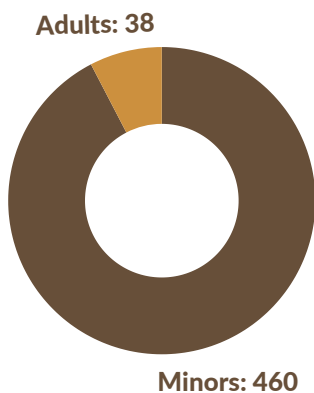
2023 SC Law Enforcement Division Data, trafficking cases by county.⁵



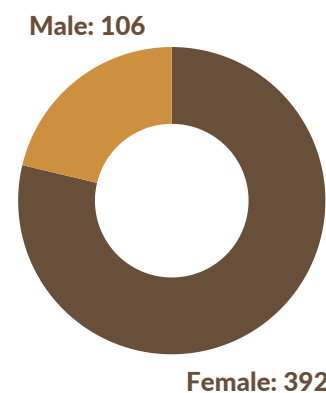
Current state law fails to fully protect minor victims of human trafficking. While minors cannot consent to or be charged with prostitution due to their age, they can still be charged with and adjudicated delinquent for status offenses, such as running away and incorrigibility, and non-violent misdemeanors committed under the duress of the trafficking, such as shoplifting.⁴

Most law enforcement officers and solicitors are unlikely to pursue and prosecute trafficking victims for status offenses and non-violent misdemeanors once the trafficking element becomes apparent through investigation. Instead, they refer victims to the Department of Social Services and other resources.⁶ However, state law does not reflect this practice. Statutory amendments would ensure standardized treatment of these victims across the state.

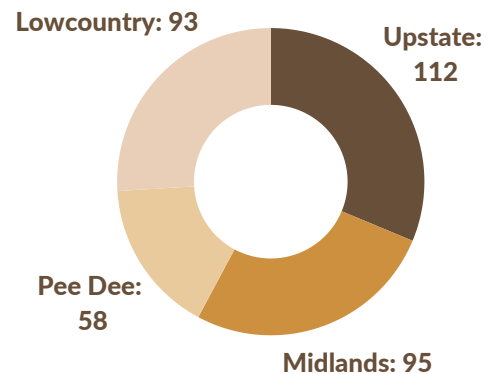
Minor and Adult Victims⁷



Female and Male Victims⁸



Trafficking By Region⁹



STATE EFFORTS TO COMBAT TRAFFICKING

TraffickProofSC

The SC Human Trafficking Task Force developed an age-appropriate child sex trafficking prevention curriculum for schools.¹⁰ The Task Force created TraffickProofSC, designed in partnership with SC ETV and Public Radio, to establish statewide human trafficking prevention education curriculum.¹¹ This curriculum is appropriate for middle and high school students and focuses on sex trafficking, labor trafficking, the use of social media, and sextortion tactics by traffickers targeting victims online.¹² TraffickProofSC aligns with middle and high school health curriculum standards and fulfills the requirements of Gavin's Law.¹³ Gavin's Law, which became state law in 2023, criminalized sexual exploitation and required training on this topic by school districts.¹⁴

Expansion of Residential Treatment Facilities

The SC Attorney General's Office requested \$10.4 million in non-recurring funds for a grant program to establish at least four residential and emergency housing facilities for minor trafficking victims.¹⁵ Statewide, only ten beds at one residential program are available for adult and minor trafficking victims, and the program only serves females.¹⁶ South Carolina has no emergency shelters for minors, no services for trafficked boys, and no services for labor trafficking victims.¹⁷ Minor victims are often trafficked by family members.¹⁸ These minors cannot return home, so emergency and residential programs that provide specialized services and restorative care are necessary for protection and treatment.¹⁹

OUR RECOMMENDATIONS

- 1. Expand protections to child victims of sex trafficking. Support Committee bill S. 142, which expands the definition of sex trafficking to include sexual exploitation of a minor and promoting or participating in the prostitution of a minor. It also codifies an affirmative defense to non-violent crimes, such as shoplifting, committed by a minor that are directly related to trafficking.**
- 2. Appropriate state funds to support the Attorney General's request to stand up a minimum of four emergency and residential programs for minor trafficking victims.**

Home Visiting Programs

THE ISSUE

Voluntary home visiting programs, administered by numerous government and nonprofit agencies, visit the homes of pregnant mothers and new and young families to act as a support and resource for both the child and family. Home visitors connect families to resources, assist parents with developing parenting skills, and monitor children’s developmental milestones.¹ Home visiting is a form of early intervention and “a prevention strategy used to support pregnant mothers and new parents to promote infant and child health, foster educational development and school readiness, and help prevent child abuse and neglect.”²

HOME VISITING BY THE NUMBERS

At least 22 home visiting models serve South Carolina families.³ Home visiting programs served more than **4,800 families in South Carolina in 2022**, with over **77,000 home visits completed**.⁴

These models reported the following data on participating families:

98% practiced safe sleep methods⁵

84% attended all medically recommended child wellness visits⁶

93% reported timely post-partum care visits⁷

97% reported reading, singing, and telling stories daily to their children⁸

96% reported as up-to-date on immunizations⁹

91% of mothers were screened for depression¹⁰

22% more likely to be compliant with infant well child visit recommendations¹¹

97% had an annual developmental screening, which identified 485 potential delays or concerns¹²



Each dollar spent on high-quality home visiting programs can offer a return on investment of \$1.75 to \$5.70¹³

In 2020, Children’s Trust conducted a statewide needs assessment that identified 44 out of 46 counties as at-risk for negative prenatal, maternal, newborn, or child health outcomes, such as children falling short of developmental milestones, families living in an unsafe environment, and children not being school-ready.¹⁴ Although home visiting programs can be a strong support for families, only 10% of eligible families receive services.¹⁵

HOME VISITING IN SOUTH CAROLINA

South Carolina First Steps and Children’s Trust fund much of the home visiting work in South Carolina and partner with local entities who provide direct services to families. Some of the models funded include:

- » **Parents as Teachers** is the state’s most prevalent home visiting model and has served South Carolina families for over 30 years.¹⁶ This model emphasizes parent-child relationships and family well-being.¹⁷ PAT is built on the foundation that parents are their child’s “first and best teacher.”¹⁸ Parent educators visit the home to train caregivers in parenting and early childhood development.¹⁹ They can assess the family’s needs, connect them to resources, and help them set goals.²⁰ Screening can provide early detection of developmental delays, meaning children can be connected to services earlier.²¹
- » **Nurse-Family Partnership** is a nationwide, voluntary program funded through Children’s Trust and SC First Steps in 27 South Carolina counties.²² NFP provides home visiting services to pregnant and new mothers.²³ Nurses visit first time moms during their pregnancy and after birth until the child’s second birthday.²⁴ Nurses share information and resources about prenatal care, improving diets, and reducing use of addictive substances.²⁵ Nurses also assist parents by planning for future pregnancies, education, and careers.²⁶
- » **Family Connects** is a model being piloted by Greenville and Pickens counties²⁷ that pairs new parents with a DHEC nurse home visitor.²⁸ Family Connects is a free service, and qualifying families are automatically enrolled.²⁹ A home visitor meets parents in their hospital room shortly after an infant is born.³⁰ A second visit to the family’s home is scheduled if the family chooses to participate.³¹ Home visitors link parents to relevant services and interventions in the community.³²

OUR RECOMMENDATIONS

- 1. Appropriate state funds to support South Carolina’s evidence-based and proven home visiting programs.**
 - » Appropriate First Steps’ request for \$1.5 million in recurring state funds for its home visiting programs to avoid limiting services when federal and philanthropic funding end.³³
 - » Appropriate \$250,000 in the state budget to draw down the federal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program’s 3:1 match dedicated to home visiting programs administered through Children’s Trust.³⁴
- 2. Monitor the results of the Family Connects pilot.**
- 3. Investigate funding opportunities, including Medicaid funding, for high-quality newborn home visiting programs.**

PUBLIC HEARING INPUT

“Families who participate in home visiting programs have lower infant and maternal mortality rates, their children have better health outcomes, they do better in school, and there are decreased rates of child abuse and neglect.”



Maternal Mortality

THE ISSUE

South Carolina's most recent maternal mortality rates are troubling. The most recent available data show the pregnancy-related mortality ratio was 32.3 pregnancy-related deaths per 100,000 live births – a decrease of 16.3% from the previous year.¹ However, disparities exist and have widened among different races in SC: per 100,000 births, Black women had a pregnancy-related mortality rate of 69.1, while White women's rate was 16.4.² South Carolina ranks number 8 for maternal mortality in the United States.³

Post-partum care can be critical to ensuring mothers and babies remain healthy. The SC Maternal Morbidity and Mortality Review Committee (SCMMMRC) reports over 80% of pregnancy-related deaths in SC occurred during the post-partum period – from the day of delivery up to one year after giving birth.⁴ Mental health and substance abuse were responsible for 50% of maternal deaths in SC.⁵ Notably, the SCMMMRC concluded 94.4% of the pregnancy-related deaths it investigated were preventable; discrimination played a contributing role in more than one third.⁶

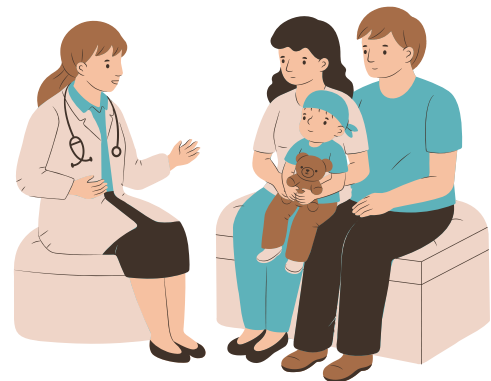
While infant and maternal mortality are two separate metrics, they are inextricably linked and affect children's health and wellbeing.⁷ Mothers with perinatal mood and anxiety disorders are more likely to smoke, drink, and use illicit drugs than those without.⁸ Children of mothers with untreated depression are more likely to be premature and have low birth weight.⁹

SCREENING IN SOUTH CAROLINA

While professional organizations recommend screening new mothers for mood and anxiety disorders and substance use, South Carolina does not mandate screening.¹⁰ Only an estimated half of women with post-partum disorders in Western countries are evaluated or receive treatment.¹¹ New approaches to screening have increased screening and treatment rates and reduced disparities.

The **SC Birth Outcomes Initiative** developed an evidence-based and integrated approach to identifying, intervening, and treating substance (drug, alcohol, and tobacco) usage, domestic violence, and depression. Known as **Screening, Brief Intervention, and Referral to Treatment (SBIRT)**, this model includes an eight question screening tool for use by providers.¹²

Additionally, the American Academy of Pediatrics recommends screening at well child visits that correspond with peak times of postpartum depression in mothers.¹³ The SC Department of Health and Human Services developed a successful quality improvement project, **Quality through Technology and Innovation in Pediatrics (QTIP)**, to address the lack of standardized implementation of postpartum depression screening among pediatric practices and to

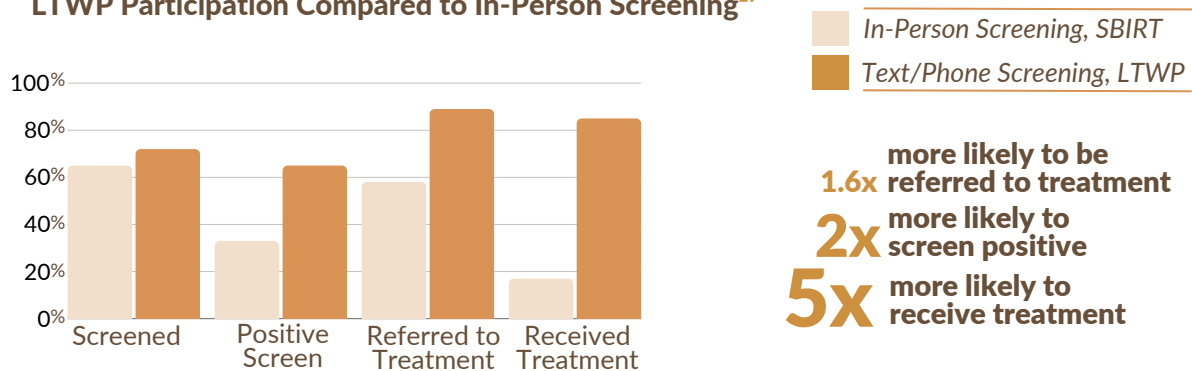


improve low screening rates.¹⁴ QTIP pediatric practices achieved an 88% screening rate.¹⁵ These results demonstrate the need for collaborative quality improvement and training to ensure providers understand the need for screening and possess the skills required to support patients in need of intervention.

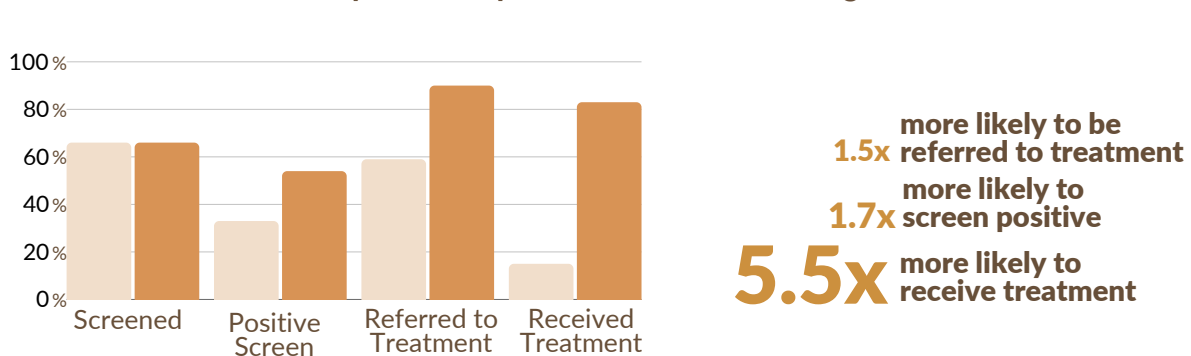
The **Mom’s IMPACTT** program is a hotline for expectant and new mothers to obtain information and referrals for mental health and substance use disorders; providers can access perinatal psychiatric consultations in real time.¹⁶ From May 2022 to April 2023, 938 individuals contacted the call line for assistance, and 96% participated in a teleconsultation with a case coordinator or psychiatrist.¹⁷ Approximately 881 patients received treatment as a result.¹⁸ Of these patients, 43% were pregnant and 52% were postpartum.¹⁹ The hotline received calls from 45 of South Carolina’s 46 counties.²⁰ The most cited reasons for calling were mental health concerns (95.3% of calls) and for peer and community support resources (65.1%).²¹

Similarly, MUSC Women’s Health Services is conducting a 10,000 participant study of text-based screening and referrals called **Listening to Women and Pregnant and Postpartum People (LTWP)**.²² If women answer “yes” to automated text questions post-partum about their mood, anxiety, or substance use, a care coordinator calls them for a more in-depth screening.²³ The woman receives her results and a call from the care coordinator, who links her to resources and makes referrals for care.²⁴ Early data show LTWP participants are more likely to screen positive, obtain referrals, and receive treatment than in-person screening.²⁵ Additionally, racial disparities identified with in-person screening do not appear in LTWP.²⁶

LTWP Participation Compared to In-Person Screening²⁷



Black female LTWP Participation Compared to In-Person Screening²⁸



A PROMISING NEW MEDICATION

Zurzuvaе is a once-daily, 14-day treatment taken orally by women experiencing symptoms of perinatal mood and anxiety disorders.²⁹ Previously, the only available intensive drug approved for treatment of these disorders required an in-hospital, 60-hour intravenous infusion.³⁰ While Zurzuvaе shows great promise, insurance coverage remains a concern. Only 17 of 1000 plus insurers (less than 1%) have published coverage guidelines.³¹ Some insurers with guidelines require patients to try another drug first or otherwise limit access.³²

OUR RECOMMENDATIONS

- 1. Consider mandating screening for mood and anxiety disorders and substance use in both the perinatal and postpartum period using evidence-based models and tools. Allow screening to be utilized in person as well as by phone and text. Extend reimbursement to screenings and consultations by phone and text as well as in person.**
- 2. Monitor insurance coverage of Zurzuvaе and consider legislation if South Carolina insurers do not cover this treatment or otherwise limit access to treatment. These treatments can be life saving for a mother - and potentially her child.**

Water Bottles in Schools

THE ISSUE

As of 2022, 50% of the required number of drinking fountains in newly constructed South Carolina educational settings must incorporate a bottle filling station.¹ However, some schools prohibit students from bringing water bottles to school due to spills and concerns about inappropriate contents.² These prohibitions result in more classroom disruption due to students accessing drinking fountains during class.

BENEFITS OF HYDRATED STUDENTS

The Centers for Disease Control and Prevention, the National Academies of Sciences, Engineering and Medicine, and the American Academy of Pediatrics recommend student access to water during the school day due to the multiple health benefits provided by hydration.³ Adequate hydration improves cognitive function resulting in improvement in children's memory, attention, and thinking.⁴ Having a reusable water bottle encourages students to drink more water due to the ease of access and the visual reminder to hydrate.⁵



WATER BOTTLES VS. WATER FOUNTAINS

While schools currently have drinking fountains on school grounds for student and staff use, they often go unused due to views that they are unclean, unpalatable, and unsafe.⁶ These views are not unwarranted. Drinking fountain handles are the most contaminated surfaces in public schools and host norovirus, influenza A, and rotovirus.⁷

New school buildings must install touchless bottle filling stations, and many existing schools have upgraded their drinking fountains to include bottle filling stations. These stations help negate many of the concerns about drinking fountains, but students cannot fully utilize the new bottle filling stations without water bottles.

Reusable bottles would also reduce the amount of waste from plastic water bottles used on campus and for field trips. Only 23% of plastic water bottles are recycled.⁸

OUR RECOMMENDATION

Pass H.4818, which allows students to bring their own water bottles to school.

- » The bill requires durable-material bottles that include a lid and may only contain water.
- » Schools may enact policies limiting use of water bottles in areas where they could cause damage to materials, such as computer labs and libraries.
- » Schools may enact disciplinary policies regarding the misuse of water bottles and limit the size, clarity, or other physical characteristics of water bottles.

Eviction & Housing Insecurity

THE ISSUE

South Carolina currently has one of the highest eviction rates in the nation.¹ In January 2024, landlords filed 1,049 eviction proceedings in Charleston County and 1,323 in Greenville County.² Eviction filing rates for adults living with children are double the rates of adults living without children – 10.4% to 5%, respectively.³ The instability created by evictions heavily impacts the lives of children.

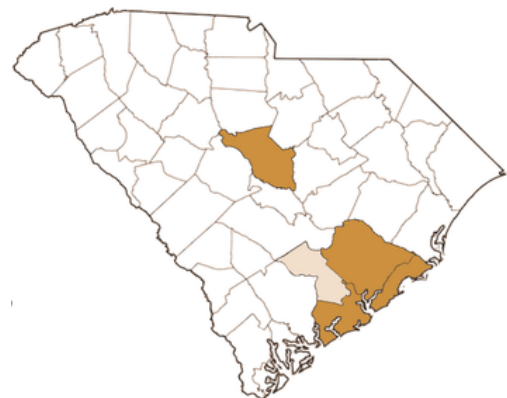
Since the pandemic-era moratorium expired, the country's eviction crisis continues to grow due to population increases, inadequate housing availability, and unaffordable rent.⁴ Increasingly, landlords evict tenants in order to take advantage of rapidly rising rental rates.⁵

Most landlords rarely evict tenants; however, a small number of landlords continuously evict a substantial number of tenants each year.⁶ Charleston has a high number of serial evictors – landlords who file for eviction multiple times as a rent-collecting tool.⁷ Serial evictors abuse the system and compound harm to tenants by passing along court costs to tenants and harming their rental history, making it more difficult for them to move.⁸ South Carolina's extremely low filing fees exacerbate the issue. Currently, SC landlords can file for eviction for as little as \$40, while the nation's average filing fee is around \$115.⁹

HOUSING COURTS

Once a landlord files for eviction, many tenants choose not to fight because they do not have resources, such as the ability to afford legal counsel.¹⁰ Charleston established the state's first housing court in 2019.¹¹ Tenants must meet certain criteria to participate in the program and are then appointed an attorney to represent them at their hearing. Several counties created housing courts and provide counsel for tenants in eviction cases. The South Carolina Supreme Court authorized, but did not mandate, the expansion of housing courts to all South Carolina counties in 2023.¹²

One80 Place works with other non-profits and the Charleston County Housing Court to prevent homelessness. In 2022, One80 Place piloted the Eviction Protection Program to provide legal assistance at no cost to low-income renters who face eviction.¹³ Data reflect a dramatic decrease in the number of evictions when a tenant has legal representation.¹⁴ In 2022, One80 Place and its partners kept 514 people in their homes through this program.¹⁵ Furthermore, the Charleston County Housing Court program had a 95% success rate of eviction prevention in 2022.¹⁶



Housing courts are active in Charleston, Berkeley, and Richland counties. Dorchester County is developing a housing court.

IMPACT OF EVICTION ON CHILDREN AND DISPARITIES

According to the U.S. Census Bureau and Eviction Lab, which tracks the nation’s eviction rates, landlords threaten nearly 2.9 million children under age 18 with eviction and evict 1.5 million each year.¹⁷ Tenants with children are more likely to be evicted than tenants without children.¹⁸ Additionally, “the proportion of children in a neighborhood is a stronger predictor of eviction rates than neighborhood-level poverty, racial makeup, or proportion of single parent households.”¹⁹

Eviictions adversely affect children. Children who lose their homes face uncertainty and experience stress, which have biological impacts on a child’s health.²⁰ Children also suffer due to the disruption of their lives, including missing instructional time in school and being forced to change schools due to eviction and the resulting move.²¹ Evictions “have been associated with food insecurity and worse overall health” in children.²² These changes can compound harm to children with special needs or health conditions.²³

Additionally, Black adults and women are more likely to experience eviction or housing insecurity, especially Black women.²⁴ These findings extend to eviction rates of families. In SC, Black women and their families are more than twice as likely to face eviction compared to White families.²⁵

OUR RECOMMENDATIONS

- 1. Establish a state minimum eviction filing fee high enough to discourage abuse by serial evictors who use courts as a rent-collection tool.**
- 2. Allow eviction filings to be expunged if the tenant wins the case or the matter is settled.**
 - » A tenant’s record reflects all eviction filings whether they were successful in defending against them or not. A tenant who is subject to multiple filings by a serial evictor can experience difficulty finding a landlord who will lease to them.²⁶

PUBLIC HEARING INPUT

“Our eviction problem is a communal issue. It is an issue that directly affects children and the families who a lot of the time are just working class people trying to get by.”

“\$40 should not be all it takes to send a family into the spiral of housing insecurity.”

Regulation of Guardians ad Litem in Private Cases

THE ISSUE

The family court appoints a Guardian ad Litem (GAL) to represent the “best interest of the child” and report their findings back to the court in a variety of cases.¹ GALs in private family court cases (e.g., custody and visitation) currently serve with no regulatory body providing oversight. Volunteer GALs who are appointed in DSS abuse and neglect cases are supervised by the S.C. Cass Elias McCarter GAL program within the Department of Children’s Advocacy or by Richland County CASA.² GALs in private family court matters are not supervised in a similar manner and raise unique questions about oversight and children’s safety.

GAL DUTIES AND REQUIREMENTS

Family courts appoint private GALs in custody and visitation cases when a substantial dispute exists between the parties and the court needs the GAL to establish the facts for the court, or both parties agree to appoint a GAL.³ A GAL does not represent the child; rather the GAL investigates the child’s situation and family, meets with and observes the child, and otherwise gathers information and reports to the court on the best interest of the child.⁴ GALs can be attorneys or non-attorneys.⁵

State law requires private GALs undergo a criminal history background check prior to each appointment and provide an affidavit attesting compliance with the statutory qualifications.⁶ Private GALs must also complete training. Attorney GALs must annually complete six hours of continuing

	McCarter/Richland Co. CASA Programs	Private GALs
Case Type	Abuse/Neglect (DSS Actions)	Private custody/visitation actions
Volunteer/Paid	Volunteer	Paid
Supervision	Dept. of Children’s Advocacy/Richland Co. CASA	None, self-attest that requirements are met
Attorney/Non-Attorney	Usually non-attorney	Attorneys & non-attorneys

legal education credit in the areas of custody and visitation, which may be waived by the court.⁷ Non-attorney GALs must observe three contested custody merits hearings and annually complete continuing education in custody and visitation, family court substantive law and procedure, and custody and visitation.⁸ GALs in private cases self-attest they meet these requirements.⁹

LACK OF OVERSIGHT

While GALs in private cases self-attest they meet the requirements,¹⁰ no agency or other entity currently tracks whether they are in compliance with statutory requirements, such as criminal background checks. While attorney GALs could arguably fall under the Office of Disciplinary Counsel’s (ODC) oversight, such oversight is unclear when the attorney is serving as a GAL and not as counsel. Regardless, ODC has no oversight over lay GALs. The lack of oversight is cause for concern for a variety of reasons.

First, GALs must have access to the child or children involved with the case in order to complete their investigations and make recommendations to the court. This access often includes meeting and talking with the child in private. While not everyone with a criminal background poses a threat to children, a person with nefarious intentions could take advantage of this regulatory hole to gain access to children. In one recent South Carolina case, a court appointed a lay GAL with a criminal background to a custody dispute, and the GAL allegedly locked the child inside a vehicle with them.¹¹ Proper oversight could have prevented this and similar situations from occurring.

Second, the lack of a supervisory entity means no mechanism exists to receive complaints about GALs in a private action. The Department of Children’s Advocacy (DCA) receives inquiries and complaints from the public about GALs in private actions, but the scope of DCA’s oversight is limited to GALs in child abuse and neglect cases.¹² These callers seek to verify a GAL’s credentials, file a complaint against a GAL in a private action, or access a registry of qualified GALs.¹³ DCA does not oversee GALs in a private action, but neither does the S.C. Supreme Court or the South Carolina Bar. Callers report being passed around to different agencies in an effort to speak to someone about a GAL in a private case.¹⁴

PRIOR REGULATORY EFFORTS

A 2017 GAL Task Force proposed a Commission on Private GALs to govern private GALs’ conduct as well as to establish a disciplinary process, qualifications, and training requirements.¹⁵ These recommendations were not implemented.

OUR RECOMMENDATIONS

1. Study the lack of oversight for private GALs, including reviewing the GAL Task Force’s previous recommendations for a Commission on Private GALs and rules governing qualifications, training, conduct, and discipline.
2. Support resulting changes to state law and court rules to address oversight of GALs in private family court cases.

PUBLIC HEARING INPUT

“There is [no] oversight/supervision of private guardians ad litem in South Carolina. Background checks may or may not be performed. No accountability, no in-depth training, no standardization of procedures or fees, and they are permitted to self-vet that they have completed the menial training that is currently required by statute.”



Indigent Parties & Private Guardian ad Litem Fees

THE ISSUE

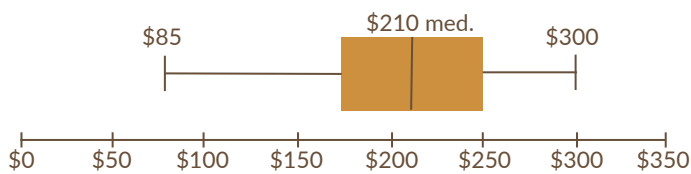
Private family court proceedings can be expensive. When child custody is involved, the average case cost per litigant is \$13,867.¹ On top of attorney and court fees, litigants must also pay the fees for a Guardian ad Litem (GAL) appointed by the court to represent “the best interest of the child.”² While indigent parents can qualify for a waiver of court costs, the court will not waive the GAL fees.³ The lack of options for indigent parents leaves them facing potential jail time if they are held in contempt of court for non-payment of fees. It also frustrates the family court process and often results in unpaid work for attorney GALs. Of greater concern is the potential risk posed to children because a parent cannot afford to bring a safety concern to the court’s attention.

COST OF GAL SERVICES

A party’s failure to pay GAL fees can have serious repercussions for everyone involved. Family court judges sometimes dismiss custody or visitation petitions if the parties cannot pay a GAL.⁴ In this situation, not only is an investigation into the child’s best interest not completed, but it could also result in children being stranded in unhealthy or dangerous custody or visitation arrangements. Legal practitioners expressed concerns that some litigants forego raising legitimate concerns about their children’s safety and wellbeing to limit or avoid GAL fees they know they cannot afford.⁵

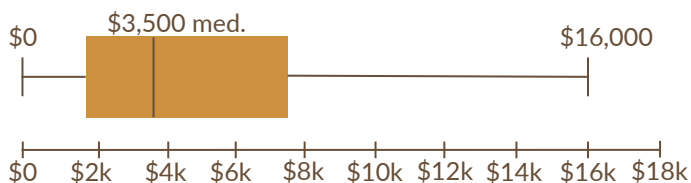
Little data is available on GALs for private actions in South Carolina. In a recent survey conducted by the Committee on Children and the Children’s Law Center, 69 attorneys who serve as GALs and 16 family court judges responded to questions about GAL rates and family court procedure when a party cannot pay.⁶

Hourly Rate: Dollars per hour⁷



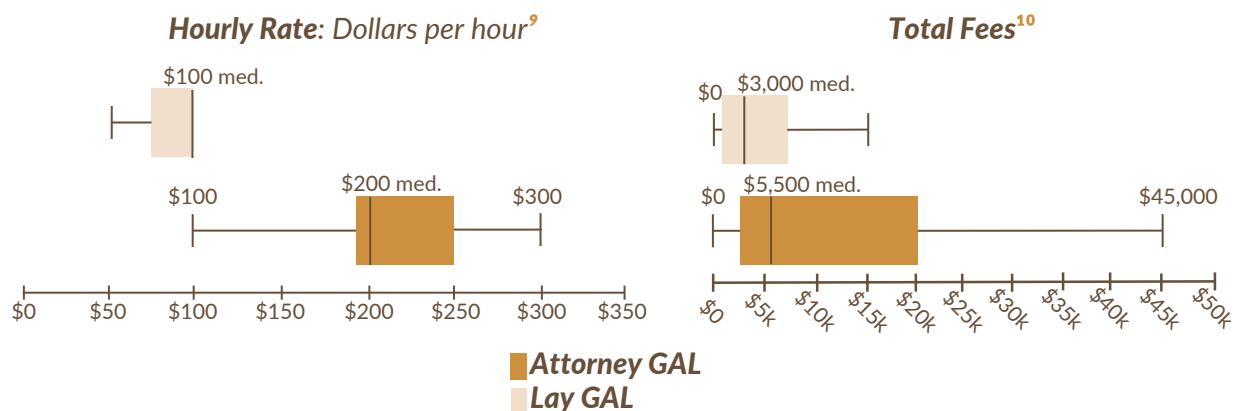
Attorney GALs reported their hourly rates set at the time of their appointment to a case. Hourly rates varied depending on the type of case.

Total Fees⁸



Attorney GALs reported their typical total fees in private family court cases range from \$1,500 to \$16,000, with a median of \$3,500 and several outliers up to \$95,000.

Family court judges shared, in their experience, the hourly and total fees for attorney GALs and lay GALs are in the following ranges:



INABILITY TO PAY GAL FEES

Many attorneys and family court judges surveyed reported the GAL will try to arrange payment plans if parties cannot afford the GAL fees. Another option is to petition the family court to reappportion the GAL fees between the parties if one litigant is better able to afford the fee than the other. However, this reallocation could result in a perceived bias against the party unable to pay and a failure of the GAL to remain impartial in representing the child’s best interest.

GALs can also file a Rule to Show Cause against litigants to hold them in contempt of court for not paying their fees. The GAL must pay the filing fee plus the costs of service and notice which can reach or exceed \$100. To be held in contempt, the GAL would need to prove the party had means to pay but willfully chose not to.¹¹ If the court decides the litigant does have the ability to pay, it can incarcerate the party for failure to pay.¹² These parties can also be held responsible for additional past due fees and the GAL’s court costs. Jailing low-income or indigent litigants not only removes an adult from a child’s life, but also potentially creates instability and uncertainty for a child who is already experiencing one adverse childhood experience.

The GAL is often not paid for their work on the case if the court finds the party was not willful in their failure to pay.¹³ While the lack of payment for appointed work presents issues about takings, much like *In re Brown*,¹⁴ the broader practical impact is fewer attorneys will take appointments where the clients are low-income or indigent.



When asked what the GAL does when a party cannot pay the GAL fees, the majority of attorney GALs indicated the GAL would file to hold the party in contempt of court, and over half indicated the GAL would try to work out a payment plan, accept partial payment, or ask the court to reallocate the unpaid fees to the other party. Several other respondents indicated they would complete the appointment with no payment, only dedicate the minimum time required, or ask to be relieved from the appointment.

68% of attorneys have filed a Rule to Show Cause to have the party held in contempt¹⁶

64% of attorneys try to establish a payment plan or reallocate fees to other party¹⁷

23% of attorneys stated they simply take the loss of no payment¹⁸

7% of attorneys stated they would ask to be relieved from the appointment or do the minimum work required¹⁹

LOCAL EFFORTS TO SERVE INDIGENT LITIGANTS

Several attorney GALs recognized the challenges facing indigent parties in the Midlands regarding GAL fees and created the **Palmetto Center for Children’s Legal Access (PCCLA)**. PCCLA is a non-profit organization whose mission is to “provide access to quality and affordable guardian ad litem representation for children in private family court cases through legal advocacy and training.”²⁰ PCCLA contracts with attorney GALs to provide GAL services on a sliding fee scale based on the income of an individual litigant.²¹ The fee for the lowest income tier, parties making less than \$30,000 a year, is \$30 per hour with a retainer set for 10 hours of work or \$300.²² PCCLA reports many indigent parties cannot afford even the reduced fee.²³ As a result, appointed attorney GALs are often not paid for their services because indigent parties cannot afford even the lowest levels of payments.²⁴

PCCLA Sliding Fee Scale

<\$30,000.00/year	= \$30.00/hour
<\$40,000.00/year	= \$40.00/hour
<\$50,000.00/year	= \$50.00/hour
<\$60,000.00/year	= \$60.00/hour
<\$70,000.00/year	= \$70.00/hour
<\$80,000.00/year	= \$80.00/hour
<\$90,000.00/year	= \$90.00/hour
>\$90,000.00/year	= \$100.00/hour



OUR RECOMMENDATION

- » **Establish a study committee to study the issues identified above, including questions about children’s safety, access to justice, appointments without pay, and court efficiency.**

DMV Placard Process

THE ISSUE

Visiting the Department of Motor Vehicles (DMV) can be an inconvenience for neurotypical and able-bodied individuals.¹ A typical trip to the DMV can present additional challenges for individuals with disabilities or mobility limitations and their caregivers. Improving access to services, such as revising the photograph requirements for a handicapped parking placard, can ease some of this burden.

Qualified users can apply for a temporary and permanent handicapped parking placard, which requires their photograph. State law currently requires the DMV to use a photograph from the applicant's driver's license or state ID card.² Children under 5 can be qualified users and apply for a placard, but they are not old enough to obtain a driver's license or a state ID, so their caregivers must bring them into a DMV office to take a photograph.³ While DMV wait times have improved recently,⁴ users at certain offices may still experience wait times of an hour.⁵ An hour in a loud and busy location can be incredibly difficult for individuals with sensory processing issues, as is common in individuals with autism, and their caregivers.



Amending the statute to allow these individuals to submit a photograph to the DMV for approval for use on a handicapped parking placard can ease some of this burden and obviate the need for the individual to make a special trip to a DMV office to have their photograph taken. Changing the required photograph process for a handicapped parking placard would benefit not only young children, but also every qualified user applying for a handicapped parking placard who struggles to access services due to limitations related to their disabilities, behavioral health, or mobility concerns.

OUR RECOMMENDATION

Pass H. 4819 to allow qualified users who apply for handicapped parking placards to provide a photograph for DMV approval rather than being required to have a photograph taken at a DMV office.

» H. 4819 does not alter the procedure or requirements for obtaining a driver's license or state ID card.

Please contact the DMV's Office of Constituent Services if you require accommodations or assistance:

DMVConstituentServices@scdmv.net
(803) 896-5599

Safe Sleep, Pediatric CPR & First Aid Training

THE ISSUE

Children are at risk in child care facilities that employ caregivers not trained in safe sleep practices, cardiopulmonary resuscitation (CPR), and first aid. Currently, only about half of South Carolina’s child care facilities participate in the Department of Social Services’ (DSS) voluntary ABC Quality program,¹ which requires all staff to complete training for CPR, first aid, management of a blocked airway, and safe sleep practices.² The other half of facilities are only required by state law to place infants on their backs to sleep and have one person present in the facility who is trained in pediatric first aid, CPR, and management of a blocked airway.³ No safe sleep training is required for non-ABC facilities,⁴ and regulations do not address supervision of sleeping infants, soft bedding in cribs, or restrictive equipment in which babies might sleep, such as loungers or rockers.⁵

BEST PRACTICES

Safe Sleep

Approximately 3,500 sleep-related infant deaths, including sudden infant death syndrome (SIDS) cases, occur annually in the United States.⁶ From 2019 to 2021, South Carolina reported 139 infant deaths related to infants’ sleeping environments.⁷ The American Academy of Pediatrics recommends a safe sleep environment in a child care setting to reduce the risk of all sleep-related deaths, including laying an infant on their back to sleep; using a firm, non-inclined sleep surface; and avoiding soft bedding and overheating.⁸

Multiple state agencies and non-profit organizations provide safe sleep training at no cost to child care workers and facilities.⁹ In 2024, the South Carolina Program for Infant/Toddler Care¹⁰ will introduce the Sleep Safe SC Child Care Designation, which will provide free training, coaching, and materials to equip infant caregivers and child care programs with the tools needed to implement consistent safe sleep practices.¹¹

Pediatric CPR and First Aid

Choking is one of the leading causes of infant deaths and the fourth leading cause of death among preschool children, with fatal outcomes occurring within minutes.¹² Other serious injuries in which a caregiver may need to use CPR include electrical shock, poisoning, serious injury or head trauma, drowning, or suffocation.¹³ Having an individual trained in CPR immediately respond to the situation could mean the difference between life and death for the child.¹⁴

Programs such as The National Safety Council’s Southeastern Chapter provide free certification courses to all child care staff providing direct supervision of children enrolled in ABC Quality.¹⁵ For facilities not participating in ABC Quality, the average cost of Pediatric CPR training is \$25 to \$80 per person,¹⁶ and the average cost of biannual recertification is \$15 per person.¹⁷

NATIONAL LANDSCAPE

The National Database of Child Care Licensing Regulations compares South Carolina’s licensing requirements to other states as of 2023.¹⁸ Licensing for child care providers not participating in ABC Quality vary by the type of setting: child care center, family child care home, and group child care home.¹⁹

South Carolina Licensing Requirements:	Child Care Center	Family Child Care Home	Group Child Care Home
All staff required to have CPR Certification	✗	✗	✗
All staff required to have First Aid Certification	✗	✗	✗
Infants must be placed on the back to sleep	✓	✗	✓
Prohibits soft bedding in cribs	✗	✗	✓
Supervision requirements for sleeping infants and toddlers	✗	✗	✗

State Survey of Licensing Requirements:

All staff required to have CPR Certification	22 states	38 states	32 states
All staff required to have First Aid Certification	19 states	38 states	31 states
Infants must be placed on the back to sleep	50 states	43 states	37 states
Prohibits soft bedding in cribs	43 states	41 states	34 states
Supervision requirements for sleeping infants and toddlers	22 states	28 states	22 states

STATE-LEVEL DEVELOPMENTS

DSS proposed revised Family Child Care Home regulations in January 2024. The proposed regulations require an hour of sleep training and include requirements for sleep supervision and sleep environments, among other updates.²⁰ DSS is currently reviewing the regulations for licensed centers, group child care homes, and faith-based centers to update those settings as well.

OUR RECOMMENDATIONS

- 1. Enhance child care licensing regulations for all settings to require annual safe sleep training for all infant caregivers and include specific requirements for infants’ sleep environment and supervision of sleeping infants and toddlers.**
 - » This requirement imposes no cost burden on providers because multiple state agencies and non-profit organizations provide free safe sleep training.
- 2. Consider amending state law to require all child care staff who provide direct care to children to be CPR and First Aid certified.**
 - » Additional funding through state appropriations or federal programs may be available to reduce the cost for child care facilities not enrolled in ABC Quality.

Child Care Challenges

THE ISSUE

Child care workers have struggled with low wages and lack of employee benefits for decades.¹ The expiration of federal pandemic funds in 2023 threatened already struggling child care facilities with loss of essential child care professionals and potential closure.² Child care facilities will likely be forced to limit the number of children they can serve. In turn, this limitation eliminates much-needed child care for parents, who will be forced out of their jobs or to limit employment due to a lack of child care.³

South Carolina child care workers make a median annual salary of \$19,480, which is less than 138% of the federal poverty level and lower than the average US child care worker income of \$24,230.⁴ Child care workers also earn less income than kindergarten teachers, pre-k teachers, and pet sitters.⁵ Child care workers are not usually offered benefits,⁶ and 72.8% of early childhood educators report retention issues due to burnout and exhaustion.⁷ As a result, highly qualified and educated individuals often quit to work at retail, food service, and administrative jobs for higher pay, benefits, and less demanding job tasks.⁸

While child care workers faced low wages, turnover rates, and lack of benefits before the pandemic,⁹ federal pandemic funding eased many of these issues. Specifically, funds provided child care assistance to essential worker parents, subsidy payments for care during remote learning hours, extended day and year programming for the state's 4K program, grants for providers that closed or lost revenue due to low enrollment, and supplements for parents' child care costs.¹⁰ However, federal pandemic funds expired on September 30, 2023.¹¹ The impact of this loss of funding remains to be seen; however, one study cautions 37.5% of child care centers may be unable to sustain wage and salary increases and forced to cut wages.¹²

PRACTICAL IMPACT

The lack of child care workers means facilities cannot appropriately staff classrooms, which leads facilities to limit slots for children to remain in compliance. Limited spots for child care means parents are limited in their ability to work or are unable to work because they cannot find child care. About one in four parents reported being fired for work interruptions due to a lack of consistent and reliable child care, and 26% of parents quit their jobs due to child care problems.¹³



According to a study by Century, the loss of the federal pandemic funds for child care centers could result in **\$129 million lost in employee productivity** and **\$5.7 million lost in state income tax.**¹⁴

SOUTH CAROLINA

The South Carolina Department of Social Services announced the **SC BOO\$T** pilot program in February 2024.¹⁵ SC BOO\$T uses remaining American Rescue Plan Act funds to award one-time bonuses to qualified child care professionals with the goal of reducing turnover rates by investing in the state’s early childhood workforce.¹⁶ Bonuses range from \$2,200 to \$4,000 based on the professional’s education and credentialing.¹⁷ Data from this pilot program could be used to develop future programs and funding requests at the state level.



The General Assembly formed a **Special Joint Committee to Study Childcare** in September 2023.¹⁸ The Joint Committee was tasked with studying and developing solutions to address availability and affordability of child care with the goal of improving workforce participation.¹⁹ The Committee’s recommendations are expected in early 2025.

NATIONAL LANDSCAPE

States have adopted differing methods for addressing child care challenges:

Kentucky made child care professionals eligible for subsidies for their own children’s care by excluding income from the subsidy eligibility determination.²⁰ Child care professionals were quitting their jobs to work elsewhere for higher wages.²¹ This incentive through Kentucky’s Employee Child Care Assistance Partnership Program (ECCAP) reversed this trend: Child care professionals chose to stay in the profession because they saved money overall by not having to pay for care for their own children.²²



New Mexico doubled the state’s income eligibility for child care assistance and eliminated parent copayments, resulting in nearly universal free child care for families.²³

Louisiana offers School Readiness Tax Credits for families, child care providers, child care directors and staff, and businesses to encourage child care facilities’ participation in the state’s quality rating program.²⁴ The Quality Start Child Care Rating System ensures child care centers are staffed by properly trained individuals and are safe, structured environments for care and learning.²⁵



OUR RECOMMENDATIONS

1. Pass S. 862 to address staffing barriers identified by child care providers.

- » Provider feedback about staffing barriers informed the bill, which would reduce the current supervision requirement for new employees without six months’ experience in a child care facility from 6 months to 30 days, increase the number of training hours for new staff, and shorten the time frame for completing the required training after hire.

2. Review recommendations made by the Special Joint Committee on Child Care.

3. Monitor the success of SC BOO\$T and creative methods adopted by other states to address child care challenges.

Kinship Caregiver Licensing Standards

THE ISSUE

Research shows the benefits of kinship care placement, yet state agencies and kinship caregivers currently face several hurdles to placing a foster child in kinship care. A new federal rule allows states flexibility to streamline the process for kinship caregivers to become licensed as foster parents, creating cost savings and procedural efficiency.¹

Kinship caregivers are kin, such as aunts, uncles, grandparents, siblings, or extended family, or fictive kin with whom children and youth are placed with after they are removed from their homes due to an unsafe environment.² Kinship care is the preferred method of placement for children in the foster system because it allows maintenance of family connections and cultural traditions and minimizes the trauma of foster care entry.³ Children living with kin experience higher stability and fewer behavioral issues than children living with non-kin foster parents.⁴

Who are fictive kin?

Fictive kin are adults who are not related or linked to the child by birth, adoption, or marriage but have an emotionally significant relationship with the child, such as neighbors or family friends.⁵

STATE LICENSURE STANDARDS

Foster families and kinship caregivers must meet certain requirements in order to be licensed and receive state funding.⁶ All adult household members must pass a criminal background check and child abuse registry checks.⁷ In addition, the house must meet certain standards for size and condition, and the caregivers' income is considered.⁸ Prior offenses often prohibit the applicant from becoming licensed, including non-violent offenses such as felony drug-related offenses and prostitution.⁹

South Carolina investments in kinship care in recent years:



2018

Kinship placement became easier through the creation of a waiver for non-safety requirements for kinship homes to become licensed foster placements.¹⁰



2022

State lawmakers added kinship caregivers to the list of "other legal representatives" who could obtain a birth certificate for a child in their care.¹¹

RECENT DEVELOPMENTS AT THE FEDERAL LEVEL

In 2000, the U.S. Administration for Children and Families (ACF) promulgated regulations requiring each state to apply the same foster care licensing or approval standards to all foster family homes, relative and non-relative.¹² ACF provided an option for Title IV-E agencies like DSS to waive non-safety-related licensing standards for individual relative foster family homes.¹³ Twenty years later, 42 states, the District of Columbia, Puerto Rico, the Virgin Islands, and 3 tribes report using these waivers.¹⁴ SC is among the states that currently waive some unmet requirements that do not affect the child's health or safety and give caregivers some flexibility in the amount of time they have to meet requirements since the placement is often unexpected.¹⁵

In an effort to reduce administrative costs and burden on Title IV-E agencies, as well as to maximize federal reimbursement for foster care maintenance payments, the ACF published a rule in 2023 allowing states to apply licensure or approval standards to kinship caregivers that differ from non-relative foster placements.¹⁶ State agencies can now create a streamlined and discrete procedure for kinship placements and avoid completing a waiver for each individual kinship placement.¹⁷

OUR RECOMMENDATION

- » **Amend S.C. Code Section 63-7-2320(D)(4) to provide for the implementation of discrete standards for kinship caregivers.**

PUBLIC HEARING INPUT

“Kinship Care maintains familial and community bonds, provides stability, and gives kids an identity of community and belonging.”

“I’ve listened to a grandmother cry on the phone, ‘I wrote some bad checks 20 years ago and now I can’t have my grandbaby.’”

2022

The General Assembly added fictive kin to the DSS Kinship Foster Care Program statutes and granted kin legal status and eligibility for payments and services during the licensure process.¹⁸

2023

Relatives and fictive kin became eligible for guardianship assistance payments after a court appoints them as legal guardian.¹⁹

References

Morphed Pornography of Identifiable Children and Obscene Visual Representations of Child Sexual Abuse

¹ The underlying pornographic image may be of an adult or child; the latter is already prohibited material. MPIC includes “deepfakes” but also includes less sophisticated combinations of images.

² Finger, *Overview of How to Create Deepfakes – It’s Scarily Simple*, Forbes, Sep. 8, 2022, <https://www.forbes.com/sites/lutzfinger/2022/09/08/overview-of-how-to-create-deepfakesits-scarily-simple/?sh=3e6b714b2bf1> (last visited Mar. 5, 2024).

³ *Id.*; *New York v. Ferber*, 458 U.S. 747 (1982); National Center for Missing & Exploited Children, *Child Sexual Abuse Material*, 2024, <https://www.missingkids.org/theissues/csam> (last visited Mar. 5, 2024) (“... 67% of child sexual abuse material survivors said the distribution of their images impacts them differently than the hands-on abuse they suffered because the distribution never ends and the images are permanent.”).

⁴ S.C. Code Ann. § 16-15-395 (Supp. 2023); S.C. Code Ann. § 16-15-405 (Supp. 2023); S.C. Code Ann. § 16-15-410 (2015).

⁵ Anastasio & Alba, *Google and Microsoft Are Supercharging AI Deepfake Porn*, Bloomberg, Aug. 2023, <https://www.bloomberg.com/news/articles/2023-08-24/google-microsoft-tools-behind-surge-in-deepfake-ai-porn> (last visited Mar. 5, 2024).

⁶ *See*, for example, *State v. Zidel*, 156 N.H. 684 (N.H. 2008) and New Hampshire’s statutory language which makes it criminal to “knowingly . . . buy, procure, possess, or control any visual representation of a child engaging in sexually explicit conduct.” N.H. Rev. Stat. Ann. § 649-A:3 (West 2018).

⁷ 18 U.S.C.A. § 2256(8) and (9) (2018).

⁸ Interview with South Carolina family affected by MPIC, to protect the minors involved the interviewees will not be identified, (Nov. 13, 2024).

⁹ Interview, Internet Crimes Against Children (ICAC) Unit within SC Attorney General’s Office, (Dec. 11, 2024).

¹⁰ National Association of Attorneys General, Letter to Congress, Sep. 5, 2023, <https://www.scag.gov/media/pvehppkm/54-state-ags-urge-study-of-ai-and-harmful-impacts-on-children.pdf> (last visited Mar. 5, 2024).

¹¹ Solon, *Inside the surveillance software tracking child porn offenders across the globe*, NBC News, Jul. 17, 2020, <https://www.nbcnews.com/tech/internet/inside-surveillance-software-tracking-child-porn-offenders-across-globe-n1234019> (last visited Mar. 5, 2024).

¹² *Id.*

¹³ Crawford & Smith, *Illegal trade in AI child sex abuse images exposed*, BBC, Jun. 28, 2023, <https://www.bbc.com/news/uk-65932372> (last visited Mar. 5, 2024).

¹⁴ *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002) (The U.S. Supreme Court overturned a federal ban on simulated child pornography, finding the law was overly broad and could capture speech protected by the First Amendment); 18 U.S.C.A. § 1466(a) (2003) (However, The Department of Justice has successfully prosecuted these crimes under the federal obscenity statute); *See U.S. v. Whorley*, 386 F. Supp. 2d 693 (E.D. Va. 2005) (Whorley was convicted for using his work computer to receive obscene Japanese anime cartoons), *aff’d conviction*, 550 F.3d 326 (4th Cir.), *cert. denied*, 558 U.S. 1117, 130 S.Ct. 1052 (2010).

¹⁵ National Association of Attorneys General, *supra* note 10.

¹⁶ Fla. Stat. Ann. § 827.071 (2022); 11 R.I. Gen. Laws Ann. § 11-9-1.3 (2004).

¹⁷ *Id.*; O.C.G.A. § 16-12-100.2 (2023); Conn. Gen. Stat. Ann. § 53a 193(13) (2013).

Child Victims of Sex Trafficking

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⁷ *Id.*, The box represents the middle 50% of responses to the question “What is your average hourly GAL rate for a private action in family court?” The line inside the box is the middle or median value; “T” lines show the maximum values. Most values given are estimates, and participants provided no actual documentation. Two respondents noted that it was also up to the court’s discretion.

⁸ *Id.*, The box represents the middle 50% of responses to the question “What is the (least, average, highest) amount in GAL fees for a private action you have submitted to the family court in a case?” Most values given are estimates, and participants provided no actual documentation. Twenty respondents listed maximum reported fees beyond the range of the typical fees shown on this graph; they are included in the calculation of the median total fee. Several respondents indicated these high fees were not a typical case; others indicated their responses were only estimates.

⁹ *Id.*, The box represents the middle 50% of responses to the question “What is the average hourly GAL rate for a private action in family court for (attorney or lay) GALs?” Most values given are estimates, and participants provided no actual documentation. Four family court judges responded they do not use or rarely use lay GALs.

¹⁰ *Id.*, The box represents the middle 50% of responses to the question “What is the (least, average, highest) amount in GAL fees for a private action a (lay/attorney) GAL has submitted to your court in a case?” Most values given are estimates, and participants provided no actual documentation. Several respondents did not answer due to lack of recollection, not using lay GALs, or the case settling prior to GAL involvement. Five respondents listed maximum reported fees beyond the range of the typical fees shown on this graph; they are included in the calculation of the median total fee.

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¹⁷ *Id.* Survey question “When a party cannot pay the GAL fees in a private action, what does the GAL in a private action do?” 44 of 69 attorney GAL respondents indicated they will offer to set up a payment plan, accept partial payment, or petition the court to reallocate unpaid fees to other party.

¹⁸ *Id.* Survey question “When a party cannot pay the GAL fees in a private action, what does the GAL in a private action do?” 16 of 69 attorney GAL respondents indicated they will take the loss of fees without pursuing further legal action.

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