

COMMITTEE *on* CHILDREN

2025 Annual Report

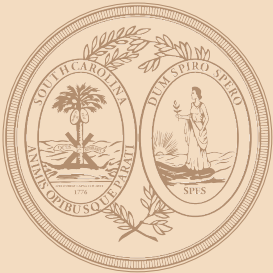


TABLE OF CONTENTS

Welcome Letter 1

Committee Membership 2

2024: Year in Review..... 2

The Issues

» Preschool Suspensions 4

» Private Providers in Schools 7

» Administrative Subpoena 9

» CSC with a Minor, Second Degree..... 10

» Lactation Consultant Coverage 12

» Suicide Awareness Training and Student IDs 15

» Donor Statute 18

References 20

Acknowledgements 26

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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 2025 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 Committee continued its review of preschool suspension rates in South Carolina. A review of state-level data from the SC Department of Education and discussions with teachers, administrators, and staff from public school districts led to recommendations to reduce suspension rates. These recommendations include professional development for teachers, administrators, and staff specific to learning about and responding to preschoolers' developmentally-appropriate behaviors and amending district codes of conduct to replace one-size-fits-all discipline with age-appropriate consequences.

The Committee's annual public hearings across the state give the public an opportunity to raise issues to the Committee. An issue raised at every hearing this fall was school districts' refusal to allow private providers to serve children during the school day on school grounds. In many instances, these services are medically necessary, and a district's reluctance to review and consider these requests could violate the Americans with Disabilities Act and other federal laws. The Committee sought to strike a balance in its recommendations between children receiving medically necessary services and districts fearing additional administrative burdens.

These are just two of the issues covered in the 2025 Annual Report, but South Carolina children and families face numerous challenges. We look forward to working with the Governor and General Assembly to implement these recommendations because children's issues affect us all.

A handwritten signature in black ink, reading "Paula Calhoon".

Paula Calhoon, Chair

A handwritten signature in black ink, reading "Mike Reichenbach".

Michael Reichenbach, Vice-Chair

Committee Membership

APPOINTED BY THE PRESIDENT OF THE SENATE

- » **Senator Brad Hutto**, Orangeburg
- » **Senator Mike Reichenbach**, Florence
- » **Senator Tameika Isaac Devine**, Richland

APPOINTED BY THE SPEAKER OF THE HOUSE

- » **Representative Beth E. Bernstein**, Columbia
- » **Representative Paula Calhoon**, Lexington
- » **Representative Carla Schuessler**, Horry

APPOINTED BY THE GOVERNOR

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

EX OFFICIO

- » **Dr. Robert Bank**, *Interim Director - Dept. of Mental Health*
- » **Tony Catone**, *Acting State 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 Public Health*
- » **Eunice Medina**, *Director - Dept. of Health and Human Services*
- » **Sara Goldsby**, *Director - Dept. of Alcohol and Other Drug Abuse Services*
- » **Ann Vandervliet**, *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

2024: Year in Review

JCLCC LEGISLATION ENACTED

In 2024, the Committee on Children sponsored or endorsed the following bills that ultimately became state law:

ACT 131 (H.3563)

- » Provided a sales tax exemption for tampons, sanitary napkins, and other personal care items for use in connection with menstrual cycles.

ACT 147 (H.4819)

- » Previously, state law required the DMV to use a photograph from a qualified user's driver's license or state ID on a handicap parking placard. Children under five can apply for a placard, but they are not old enough to obtain a DL or a state ID, requiring them to visit the DMV in person, which can be challenging for individuals with disabilities or behavioral health or mobility concerns. This bill allows a person of any age seeking a handicap parking placard to submit a picture to DMV for approval to avoid the need for an office visit just for this purpose.

ACT 213 (S.142)

- » Protects minors from being criminalized for involvement in commercial sex, recognizing them as victims rather than offenders. The bill expands the safe harbor provision to include non-violent offenses committed by the trafficked minor as a direct result of or interrelated to trafficking and expands the definition of trafficking to include sexual exploitation of a minor and promoting or participating in the prostitution of a minor.

ACT 216 (S.862)

- » Revised educational and training requirements for caregivers in childcare centers, including expanding acceptable credentials for employment.

2024 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.

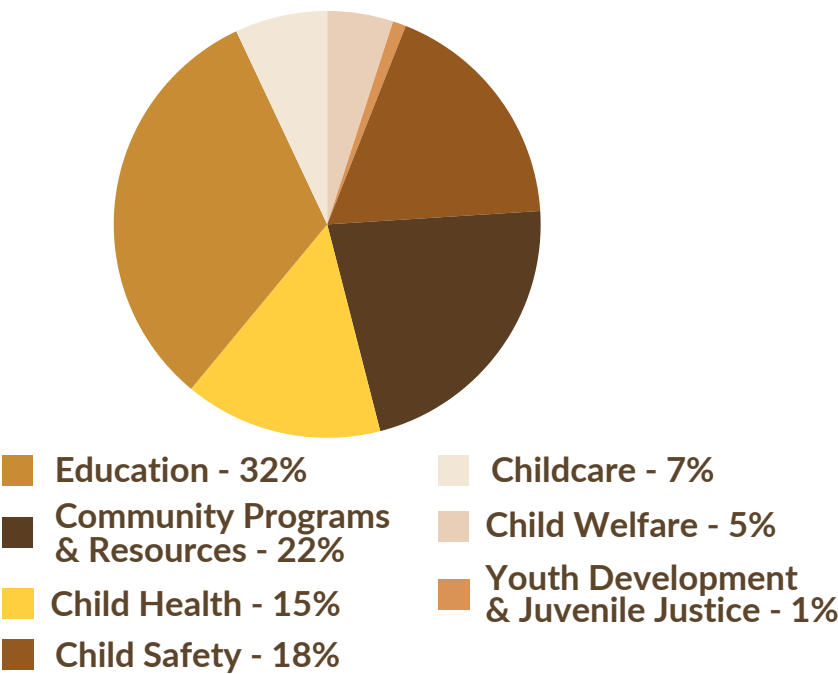
The Committee held five public hearings in 2024—two in Columbia and one each in Charleston, Spartanburg, and Conway. The Committee heard testimony from over 120 speakers on a range of topics: school nutrition, child care workforce issues, child access to firearms and gun safety, mental health services for children, education curriculum, housing instability, breastfeeding and lactation consultation, AI-generated child sexual abuse material, guardian ad litem regulations, and much more. Additionally, 89 people submitted written testimony, totaling 472 pages.

COMMITTEE EXPENDITURES

The Committee is statutorily required to account for its expenditures in the Annual Report. The following is a breakdown of the budget for FY23-24.

Salary and Wages	\$240,293.79
Fringe Benefits	\$98,491.33
Travel	\$7,305.03
Supplies	\$2,152.62
Printing	\$7,637.01
Contractual Services	\$5,561.21
Data Processing Service	\$4,646.87
Fixed Charges	\$21,166.29
Total	\$387,254.15

2024 PUBLIC HEARING TESTIMONY TOPICS



Preschool Suspensions

THE ISSUE

State education data confirm preschools located in public schools suspend students, both in-school and out-of-school, in larger than expected numbers.¹ These rates dropped during the COVID-19 pandemic but increased to higher levels once students returned to school.² A variety of factors lead schools to suspend preschoolers, including a lack of professional development in preschoolers' development and behavior for teachers, staff, and administrators and the use of one-age-fits-all codes of conduct.³

2023-2024 DATA FROM PRESCHOOLS IN PUBLIC SCHOOLS

The data shared below are from the South Carolina Department of Education and cover the use of suspension in preschools located in public schools. Many of these preschools are affiliated with the state's Child Early Reading and Development Education Program (CERDEP) 4K program, which prioritizes admission of low-income children and children with developmental delays.⁴ South Carolina expanded eligibility for the CERDEP program to all districts in 2022.⁵

Notably, the Department does not track individual suspensions per se. Instead, it tracks the number of "incidents" that led to a student receiving an in-school or out-of-school suspension and the number of students who have received an in-school or out-of-school suspension.⁶ One student could be involved in multiple incidents leading to suspension, and one incident could lead to one or more students receiving suspensions.

While data indicate a notable drop in incidents leading to suspensions due to the COVID-19 pandemic and corresponding school closures, they show an increase in the years since schools resumed their regular schedules. While the number of students being served by CERDEP increased due to its 2022 expansion, this expansion does not solely account for the increase in suspension rates. When comparing the suspension rates as a ratio to student populations since 2017, the ratio for suspension incidents to students who received suspensions after 2022 was much higher than pre-pandemic rates. Specifically, attendance numbers have been largely stable since the 2022 expansion while the ratios for out-of-school suspension incidents in 2022-2023 and 2023-2024 both jumped to over 50 out-of-school suspension incidents per 1,000 students. Pre-pandemic out-of-school suspension rates fluctuated between 30 and 40 incidents per 1,000 students.⁷

CONTRIBUTING FACTORS

Several factors contribute to South Carolina's higher rates of preschool suspension.

PUBLIC PRE-K SUSPENSION SUMMARY (2023-2024):

In-school suspensions (ISS):

270 students received at least one ISS
arising from **519** incidents*

63% are children of color

77% are male

Out-of-school suspensions (OSS):

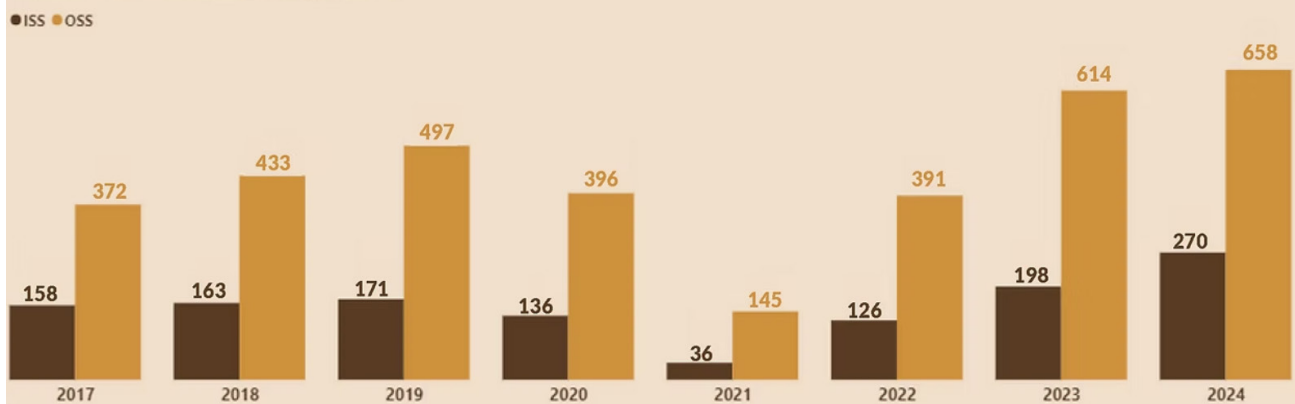
658 students received at least one OSS
arising from **1420** incidents*

66% are children of color

77% are male

*SCDE broadly defines discipline incident to include any event of student misconduct resulting in disciplinary action. The incidents reported here are limited to those including in-school suspension or out-of-school suspension.

Public Pre-K Students Suspended



LACK OF PROFESSIONAL DEVELOPMENT

Preschool teachers, school administrators, and staff identified the lack of mandatory, evidence-based professional development specific to preschooler development and behavior as one cause.⁸ School administrators stated that, while they are well-versed in addressing student behavior for older children, three and four-year-olds presented behaviors unique to those age groups they were unprepared to manage and address.⁹ Teachers, staff, and administrators admitted they did not realize the vast difference between preschoolers and older students and struggled to address preschoolers' behavior without using suspensions.¹⁰

Education for three and four-year-olds differs dramatically from that of older students; it is based largely in play and often revolves around play centers.¹¹ One teacher noted preschoolers will not sit on a rug for 20 minutes like older elementary-age students.¹² Preschoolers' behavior is part of how they communicate.¹³ While an older student would know not to talk out of turn, hit, kick, or disrupt the class, that behavior is developmentally and age-appropriate for preschoolers.¹⁴ Many preschoolers are entering a structured school environment for the first time and may act out when encountering a structure and schedule for snacks, naps, and activities.¹⁵

An increase in professional development specifically on preschoolers and their development has been successful in decreasing suspensions and reducing the number of class interruptions in districts that have invested in those resources.¹⁶ Districts report using curriculum such as Pyramid

Pieces and Conscious Discipline in addition to trauma-informed models.¹⁷ These resources can help teachers, staff, and administrators understand preschoolers' behavior and provide them with tools for addressing the behavior and redirecting the child without removing the child from the classroom. However, in a 2024 survey by the Committee, roughly half of the 57 districts that responded offered professional development on preschoolers' challenging behavior, 31% districts responded it was offered and required; and 17% responded it was not offered at all.¹⁸

CODES OF CONDUCT

All districts have adopted codes of conduct, which typically list behaviors or infractions and their corresponding consequences.¹⁹ A 2024 study by the Committee revealed the vast majority of districts appear to use a one-size-fits-all code of conduct for students of all ages.²⁰ The use of a one-size-fits-all code holds all students to the same behavioral standards regardless of their age or development. In practical terms, a preschooler could be disciplined for disrupting class, refusing to obey, or pushing, even though that behavior is developmentally appropriate. The top ten behaviors leading to incidents involving suspension for preschoolers include many developmentally appropriate actions, like hitting, biting, and throwing objects.²¹

A few districts utilize age-appropriate codes of conduct and have separate codes for younger students and older students.²² For example, some districts have a pre-kindergarten to 2nd grade code, an elementary/middle school code, and a high school code.²³ A high school student is expected to know better than to hit another student. A four-year-old hitting another student is a different situation and should have age-appropriate consequences.

Top 10 Public Pre-K Problem Behaviors
Hit/Kick/Push
Inappropriate Behavior
Disrupting Class
Refusal to Obey/Defiant
Bite/Pinch/Spit
Major Disruption
Inappropriate Physical Contact
Throwing Objects
Disrespect
Inappropriate Language

The South Carolina Department of Education offers a variety of behavior codes for school districts to choose from in the reporting systems. This process ensures that districts have access to uniform discipline codes statewide; districts also retain the flexibility to define their own specific codes.

OUR RECOMMENDATION

Pass H.4068, which would:

1. Disallow suspension of a preschooler until certain safeguards have been exhausted;
2. Require the SC Department of Education to provide professional development opportunities addressing preschoolers' challenging behaviors and provide technical assistance to districts for implementing age-appropriate codes of conduct, among other actions;
3. Establish annual data reporting responsibilities

Private Providers in Schools

THE ISSUE

Some children with behavioral and health needs require services during the school day. While many of these services are required to be provided by school districts by federal law, some students do not receive services due to districts' difficulty recruiting and retaining specialists and budget limitations, among other challenges. Parents report their school districts often do not allow outside providers to serve children during the school day on school grounds.¹ To ensure children are receiving needed services, districts should allow private providers onto campus during the school day.

STUDENTS AFFECTED

One group of students often stymied by the inability to receive medically necessary services during school is children with autism. Autism now affects 1 in 36 children, an increase of over 400% in the past 10 years.² One popular form of therapy is Applied Behavioral Analysis (ABA). ABA is an evidence-based therapy based on the science of learning and behavior with a goal of increasing behaviors that are helpful and decreasing behaviors that are harmful or affect learning.³ A physician may find it medically necessary for a child to receive 40 hours a week of ABA therapy, which can be difficult to complete solely outside school hours. Children with autism struggle to balance receiving medical care while prioritizing education.⁴

SOUTH CAROLINA

South Carolina parents have requested ABA therapists and aides to provide services in the classroom, where therapies could include making transitions from one subject to another, practicing skills like raising a hand before speaking, interacting with peers, and more.⁵ Having one-on-one assistance would free up teachers to teach the class without having to pause the lesson to assist one child, and the child could receive medically necessary services. Despite these benefits, parents and providers report districts across the state denying their requests for accommodations at school during the school day even though these services are covered by insurance or third parties.⁶ Parents say they feel forced to choose between their child's health and their education.⁷



The state Department of Education addressed the issue in two 2024 memos. In an April 2, 2024 memo, the Department instructed schools that a student's request to receive medically necessary ABA therapy in schools must "be made on an individual, case-by-case basis" when the request is made pursuant to Section 504 of the Rehabilitation Act or the American with Disabilities Act.⁸ The Department noted some students may require treatment at school as part of their therapeutic plan and categorically denying a request for accommodation or denying a request without a "comprehensive, individualized review" could violate federal law.⁹

A second memo dated September 10, 2024 elaborated by setting out guidelines for an interactive process involving all parties to come to a decision on an accommodation request. It also suggested guidelines for providers if a district grants an accommodation request, such as completing a background check and requiring proof of liability insurance.¹⁰

OTHER STATES

Florida and Colorado passed legislation in 2022 allowing private providers in schools.¹¹ Additionally, Louisiana passed legislation in 2024 preventing public school governing authorities from prohibiting behavioral health providers from providing medically necessary services authorized by an independent third-party payor to a student at school during school hours if a parent or legal guardian requests such services.¹² The school administrator and service provider are required to work collaboratively to create a consistent schedule to meet the medical needs of a student.¹³

OUR RECOMMENDATION

Support H.3974, Private Providers in Schools, which states school boards may not uniformly prohibit private providers from providing medically necessary services paid by a third-party payor to a student during the school day if a parent or legal guardian requests an accommodation. The bill also requires the State Board of Education to develop a model policy setting the parameters for allowing private providers to serve children during the school day.

PUBLIC HEARING INPUT

"There is an imbalance in assisting children with autism; if focused on medical needs, educational needs are neglected, and vice versa."

"Because autism affects a person on a global scale, treatment is expected to be delivered across multiple settings and in varied social situations."

Administrative Subpoena Process

THE ISSUE

One of the first steps in a child sexual abuse material investigation is to obtain a subpoena or state order for the offender's identity. Current procedures for obtaining a subpoena or state order for this information require action by the U.S. Attorney or a state circuit court, which can take time. These delays slow down the investigative process and efforts to identify and track down those who create, share, or possess child sexual abuse material.

BACKGROUND

When the Internet Crimes Against Children (ICAC) unit of the Attorney General's office receives a cyber tip from the National Center for Missing and Exploited Children that a particular IP address has visited a site known for child sexual abuse material, it seeks a subpoena for the subscriber's identity, street address, and other transactional records from the subscriber's telecommunications provider.¹ This information is necessary for law enforcement to continue the investigation. To obtain this information, the ICAC unit must seek a subpoena from the U.S. Attorney's Office or an order from a state circuit court administrative judge.²

While the current procedures work, they can often cause delays in identifying and tracking down those who engage with child sexual abuse material. The U.S. Attorney must sign subpoenas for the variety of federal investigations based out of his office in addition to ICAC's subpoenas.³ Crowded dockets can delay a circuit court administrative judge from addressing the agency's request and issuing an order. These delays can hamper an investigation and allow an offender to continue engaging with child sexual abuse material in the interim.

STATE APPROACHES

Approximately 14 states⁴ grant state officials the authority to issue these subpoenas in these cases, including Georgia,⁵ North Carolina,⁶ Tennessee,⁷ and Alabama.⁸ Generally, these statutes authorize the state's Attorney General, solicitors, or law enforcement to issue a subpoena to disclose or produce the identity of a subscriber or customer in cases involving child sexual abuse materials. Some states limit this new power in that subpoenas can only be issued upon a showing the requested material is relevant to an ongoing criminal investigation.⁹ Allowing state officials to issue subpoenas streamlines the process and can lead to faster identification of offenders.

OUR RECOMMENDATION

Pass Committee-endorsed S.74 or H.3460, which would authorize South Carolina's Attorney General, a circuit solicitor, or SLED to issue a subpoena to disclose or produce stored electronic records about a subscriber or customer accessing child sexual abuse material. This bill limits the new authority by requiring a subpoena only be issued upon a showing the requested material is relevant to an ongoing criminal investigation.

CSC with a Minor, Second Degree

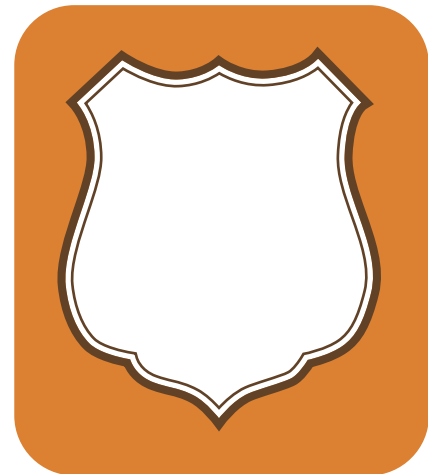
THE ISSUE

South Carolina law prescribes stringent penalties for sex predators who commit criminal sexual conduct (CSC) with a minor. These penalties include mandatory GPS monitoring for defendants convicted of CSC with a minor in the first and third degrees.¹ GPS monitoring is not mandated for defendants convicted for criminal sexual conduct with a minor in the second degree; instead, second degree is listed among other offenses for which GPS monitoring is in the court's discretion.² CSC with a minor, second degree, should require mandatory GPS monitoring under state law.

SOUTH CAROLINA LAW

Defendants can be charged with criminal sexual conduct with a minor in the first, second, or third degrees. Criminal sexual conduct with a minor, second degree, is defined in § 16-3-655(B) as:

- (B) A person is guilty of criminal sexual conduct with a minor in the second degree if:
- (1) the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age; or
 - (2) the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim . . .³



South Carolina law defines sexual battery as “sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body . . .”⁴

In 2006, the South Carolina General Assembly passed Jessie’s Law, which created tougher penalties for sexual predators.⁵ The bill was named after Jessica Lunsford, a Florida child murdered by a sex offender in 2005.⁶ Among other changes, Jessie’s Law mandated GPS monitoring for sex offenders who were convicted, adjudicated delinquent, pleaded guilty, or pleaded no contest to criminal sexual conduct with a minor, first degree, or lewd act with a minor.⁷ In 2012, the General Assembly removed

lewd act with a minor from the state's offenses and replaced it with criminal sexual conduct with a minor, third degree.⁸ It is unclear why criminal sexual conduct with a minor, second degree, was not included in mandated GPS monitoring at that time.

Under South Carolina's current GPS monitoring statute, courts must order GPS monitoring for sex offenders convicted of certain offenses, including criminal sexual conduct with a minor, first and third degrees.⁹ Subsection (G) acts as a catch all provision of additional offenses for which the court may require monitoring for sex offenders.¹⁰ While criminal sexual conduct with a minor, second degree, is included in (G), it is not included in the mandatory provisions like CSC with a minor, first and third degrees. As a result, defendants convicted of CSC with a minor, second degree, are not required to have GPS monitoring even though their crimes are more serious than third degree offenses, which require monitoring. In an absurd result, defendants can plead up from CSC with a minor third degree to second degree charges to avoid mandatory GPS monitoring.

The reasoning, if any, behind the failure to include CSC with a minor, second degree, from mandatory monitoring is unclear and could be an oversight. Its exclusion places children at risk and allows sex predators who have committed sexual battery against children to remain unmonitored.



OUR RECOMMENDATION

Support S.17 and H.3651, which add CSC with a minor, second degree, to the offenses requiring mandatory GPS monitoring.

Lactation Consultant Coverage

THE ISSUE

Many postpartum women struggle with breastfeeding after giving birth. Lactation consultants can provide education, support, and problem-solving for breast-feeding challenges, such as assessing an infant's latch and positioning; providing guidance on milk supply; addressing difficulties like nipple pain, engorgement, mastitis, or low milk supply; supporting parents of premature or medically complex infants that have special feeding needs; and educating on pumping and milk storage.¹ Insurance coverage of lactation consultation is not universal and can be complicated by coverage differences by service location and provider enrollment requirements, such as requiring state licensure where none exists. These limitations create barriers to these services and contribute to reduced breastfeeding rates.

HEALTH INSURANCE COVERAGE

The Affordable Care Act (ACA) mandated coverage for lactation care and expenses.² However, the ACA does not apply to all health insurance plans.³ Roadblocks to these services exist even in plans that cover lactation consulting. These services are often limited to inpatient services during the mother and child's hospital stay or outpatient services provided at a physician's office.⁴ These limitations do not provide coverage or reimbursement for lactation consulting provided in the home or by an independent professional not affiliated with a physician's office.

Additionally, while insurance policies may indicate they cover lactation consulting services, they often limit provider enrollment to those practitioners with state licensure.⁵ South Carolina does not have licensure for lactation consultants. As a result, despite the policy stating these services are covered, providers are not reimbursed for services provided to mothers and babies because they cannot obtain state licensure to comply with the insurer's provider enrollment requirements.

The lack of coverage means families must pay for services out of pocket, creating another barrier to access, especially for families on Medicaid. The South Carolina Women, Infants, and Children Nutrition Program (WIC) can refer families to lactation consultants but does not offer financial coverage of these services,⁶ so access to these services remains out of reach for many. WIC does provide some services and resources for breastfeeding mothers, including peer counselors and breast pumps.⁷



One way to ensure coverage and reimbursement for lactation consulting is to mandate insurance coverage. A similar requirement for coverage was made in law for therapies for children on the autism spectrum.⁸ Applied Behavior Analysis (a therapy based on learning and behavior to increase positive behaviors and decrease negative ones) therapists do not have state licensure but are reimbursed for services provided to children with autism due to the state’s mandate for coverage.⁹ A similar mandate could be passed for lactation consulting.

STATE LICENSURE

An alternative to mandating insurance coverage is to create state licensure for lactation consultants so practitioners could meet provider enrollment requirements and be reimbursed for services provided. In addition to facilitating reimbursement for services, state licensure could define the scope of practice for lactation consultants, establish training and continuing education requirements, and provide a mechanism for addressing consumer complaints. State licensure would make it easier for consumers to identify qualified providers who have completed the necessary training.

NATIONAL LANDSCAPE OF STATE LICENSURE

Currently, providers can become certified nationally on different levels. Not all certifications require the same training. The main certifications providers can obtain include an International Board of Certified Lactation Consultant (IBCLC), Certified Lactation Counselor (CLC), and a Certified Lactation Educator (CLE).¹⁰ The CLC certification requires a minimum of a 45 hour course with a 2.5 hour test administered by the Academy of Lactation Policy and Practice (ALPP), while the CLE programs are provided by various private companies with varying standards.¹¹ The IBCLC certification takes years to accomplish and includes additional requirements.¹² Only an IBCLC can be a Registered Lactation Consultant (RLC).¹³

Licensing Requirements for:	IBCLC	CLC	CLE
A health science background	✓		
Minimum of 90 hours lactation-specific training	✓		
5 hours of communication skills education	✓		
Relevant clinical experience	✓		
Adherence to the Code of Professional Conduct	✓		
Minimum of 45 hour course		✓	
Passing a 2.5 hour test administered by ALPP		✓	
Education provided by various private companies			✓
Varying standards			✓

Four states have state licensure for lactation consultants. These states typically define the scope of practice and protect the title “lactation consultant,” ensuring that only qualified professionals use it.¹⁴ Rhode Island,¹⁵ Oregon,¹⁶ and Georgia¹⁷ implemented state licensure requirements for lactation consultants that require certification as an International Board of Certified Lactation Consultant (IBCLC). New Mexico requires lactation consultants “possess current approved certification” but does not differentiate between IBCLCs or Certified Lactation Educators (CLC).¹⁸ The IBCLC credential is the more advanced credential, requiring additional training and a health sciences background, a minimum of 90 hours lactation specific education, and 5 hours of communications skills education, as well as relevant clinical experience and adherence to the Code of Professional Conduct for IBCLCs.¹⁹

The state licensure of IBCLCs to the exclusion of CLCs was challenged on constitutional grounds in Georgia. In 2023, the Georgia Supreme Court held the state licensure process for lactation consultants unconstitutional because limiting licensure to IBCLCs to the exclusion of CLCs unnecessarily limited individuals from pursuing lawful occupations and lacked a substantial connection to public health.²⁰ Essentially, the new licensure excluded hundreds of practicing CLCs and would unconstitutionally limit their ability to practice. If South Carolina pursues state licensure for lactation consultants, licensure that includes IBCLCs and CLCs could avoid the constitutional concerns raised in Georgia.

OUR RECOMMENDATIONS

Support legislation, such as S.42, that requires health insurance coverage for certified lactation consultants by Medicaid and individual and group health insurance plans.

Alternatively, support implementation of state licensure of lactation consultants so providers can meet insurers’ provider enrollment requirements and be reimbursed for services provided to beneficiaries. State licensure should include IBCLCs and CLCs to avoid due process issues identified by the Georgia Supreme Court.

Suicide Awareness Training and Student IDs

THE ISSUE

In the face of historic demand for child and youth mental health resources, the General Assembly passed a bill in 2022 requiring public schools to include numbers for various suicide and crisis hotlines on student ID cards for seventh grade through twelfth grade and higher education. The need for mental health resources continues to grow, and this successful initiative could be expanded to younger students and private schools. Additionally, youth suicide awareness and prevention training is already in place for middle and high school employees and should be extended to younger grades and to higher education programs.

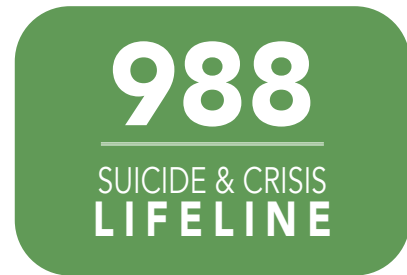
988 IN SOUTH CAROLINA

The 988 Suicide & Crisis Lifeline is a nationwide network of local crisis centers providing support to individuals experiencing a suicidal crisis, a substance abuse crisis, or other emotional distress.¹ 988 is staffed 24 hours a day, 7 days a week.² Individuals experiencing a crisis can call or text 988 or use its chat feature.³

While the majority of calls are anonymous, some callers provide demographic information. The youngest reported caller from South Carolina from 2022 to 2024 was 6 years old.⁴ The youngest caller's age has continued to trend younger with the youngest caller reported as 11 in 2019, 9 in 2020, and 7 in 2021.⁵ Recent data from 2024 show children 17 and under accounted for 7.3 percent of reported calls, and children 12 and younger accounted for 4.1% of reported calls.⁶

In 2023, South Carolina partially funded two 988 call centers in the state — one in Greenville and one in Charleston. Calls are routed to the closest in-state call center based on the caller's location if their telecom provider uses georouting for calls.⁷ Callers using other networks will be routed by area code to the call center covering that area code.⁸ South Carolina calls are routed to one in-state center; in the event of no answer, the call is then routed to the second in-state call center before ultimately being routed to a national backup.⁹ Local call centers are critical because staff are aware of local and statewide resources available for those callers whereas national backup sites may not be.¹⁰

Current state law allows districts to include a variety of resources or hotlines on IDs.¹¹ While other resources may be listed on student IDs, the 988 Lifeline should be prioritized due to the scope of services it offers and to maximize the state's investment. Because data show younger children are



Callers by Age

May 2022 through March 2024

12 and Younger	13 to 24	25 to 34	35 to 44	45 to 54	55 to 64	65 to 84	85 and Older	Age Unknown
1.0%	17.0%	21.2%	16.4%	11.0%	0.9%	2.4%	0.1%	29.9%

April 2024 through December 2024

12 and Younger	13 to 17	18 to 25	26 to 29	30 to 39	40 to 49	50 to 59	60 to 65	66 and Older	Age Unknown
4.1%	3.2%	10.3%	3.4%	13.4%	11.8%	8.6%	4.4%	4.9%	35.8%

*A percentage of demographic data is unknown due to the calls being anonymous. The demographic information shared is what was reported during a call. This chart may not be an accurate representation of the age breakdown of callers for the Lifeline.

** SAMHSA changed reporting requirements in April 2024, which accounts for the different age categories in the two charts.

accessing 988, ID requirements should be extended to younger children. Children in private schools could also be included so more children have access to life-saving information. Additionally, some public and private schools may not utilize student IDs. State law could be updated to require districts or schools to provide an alternate means of informing students about the resources available to them, such as on their log in screen or on the school's website.

SUICIDE AWARENESS AND PREVENTION TRAINING

South Carolina has required suicide awareness and prevention training for middle and high school employees since the 2013-2014 school year.¹² Increasing the number of school employees who are trained to detect students having mental or emotional difficulties could lead to an intervention that saves a student's life. Suicide is routinely in the top three causes of death for South Carolina children in age groups 10 to 14 and 15 to 19.¹³ Expanding the current training requirements to school employees in elementary and higher education would improve detection of mental and emotional difficulties for those age groups.

OUR RECOMMENDATIONS

Pass S.31/H.3631 updating the Student ID statute, which would prioritize referrals to 988, extend the statute to cover younger children and private schools, and require districts or schools to make these resources otherwise available if they do not utilize student IDs.

Pass S.30/H.3630 extending suicide awareness and prevention training to include school employees who work in kindergartens, elementary schools, and higher education programs.

Donor Statute

THE ISSUE

In South Carolina law, genetics determine legal parentage.¹ This genetic presumption of parentage leaves parents who have conceived through assisted reproductive technology (ART) vulnerable when donated sperm, eggs, or embryos are used in conception because the donor parent could challenge the parental rights of the intended parents. Unlike the majority of states, South Carolina does not provide statutory protections for intended parents or provide guidance on the rights and responsibilities of donors and intended parents.

BACKGROUND

ART is “any technology that is employed to conceive a child by means other than sexual intercourse.”² In vitro fertilization (IVF) is a type of ART in which “an egg and sperm are combined in a laboratory dish to facilitate fertilization.”³ Resulting embryos may be transferred to the uterus and/or can be preserved for future use.⁴ Egg and sperm cells can come from the individual or couple who plans to raise the child or from third parties, a scenario in which someone other than the intended parents donates eggs, sperm, or embryos for the intended parents to use.⁵ Third parties are also used in surrogacy, where a third party carries the pregnancy to term.⁶ Donor eggs are often used in IVF, with roughly 68 percent of all IVF cycles for patients older than 48 using donor eggs.⁷

SOUTH CAROLINA LAW AND PRACTICE

Until 2010, South Carolina recognized a marital presumption in law. A marital presumption presumes a child born during a marriage is a child of the marriage.⁸ The marital presumption provided some protection for families using ART involving third parties because the law would consider the intended parents the parents of a child born during the marriage. However, in 2010 the South Carolina Supreme Court found the state’s statutory genetic presumption – parentage based on DNA – trumps the common law marital presumption.⁹

This ruling hinders intended parents using third-party ART and raises questions, such as whether a sperm or egg donor can contest the parental rights of the intended parents or seek visitation. Questions also arise for the third parties involved: what if the intended parents decide they no longer want the child being carried by a surrogate? What if intended parents seek child support or other resources from the third party because the third party is the child’s biological parent?



South Carolina lawyers currently utilize a combination of custody, termination of parental rights, and paternity laws in carefully-drafted agreements to protect their clients due to the lack of statutory protections. These agreements require extensive preparation and court time, increasing parties' expenses and adding to the state's family court docket.

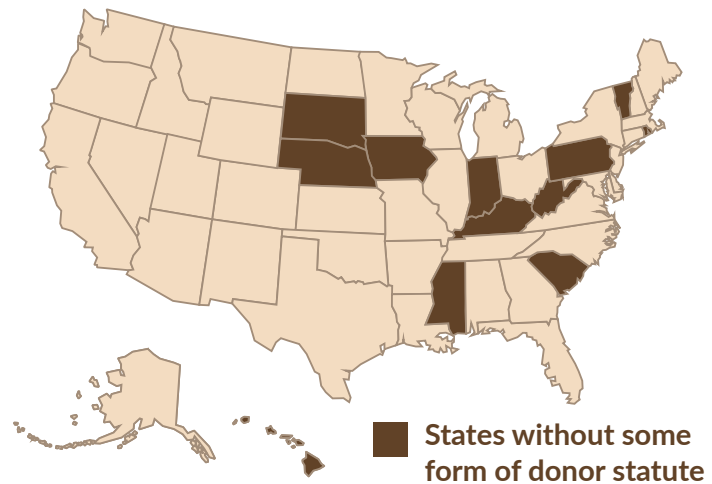
Establishing a state donor statute would address many of the concerns surrounding ART involving third parties. Donor statutes provide protections and set forth rights and responsibilities for each party in a third-party arrangement.¹⁰ They state the intended parent shall be treated at law as the legal parent.¹¹ They also state the third-party donor is not treated in law as the parent of the child conceived.¹²

NATIONAL VIEW

South Carolina is one of the 12 states that do not have some form of donor statute.¹³

PUBLIC HEARING INPUT

"During this time of 23andMe and Ancestry.com, we know DNA results are out there. We need a DNA statute—where if you donate an embryo to a fertility clinic with the intent to not be a parent, you aren't one. And if you receive a donor egg or sperm, and you intend to be that parent, you are one. Right now, there really is limbo for the children that are conceived in this way."



OUR RECOMMENDATION

Pass S.431, which would establish a Donor Statute to protect South Carolinians who utilize ART to create their families, to protect third parties who help them during the process, and to provide clarity for children born using these technologies.

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Preschool Suspension

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- ⁵. In 2022, the state expanded CERDEP eligibility to schools where at least 60% of students were in poverty. *CERDEP*, SOUTH CAROLINA DEPARTMENT OF EDUCATION (July 2024), [https://ed.sc.gov/instruction/early-learning-and-literacy/cerdep/#:~:text=In%20addition%2C%20the%202020%2D21,First%20Steps%20provider\(s\).](https://ed.sc.gov/instruction/early-learning-and-literacy/cerdep/#:~:text=In%20addition%2C%20the%202020%2D21,First%20Steps%20provider(s).)
- ⁶. S.C. Department of Education, unpublished reports on S.C. public school suspensions and attendance generated in July 2024.
- ⁷. *Id.*
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- ⁹. *Id.*
- ¹⁰. *Id.*
- ¹¹. *Id.*; see also Meg Caven, *Prioritizing Play: The Importance of Play-based Learning in Early Education*, INSTITUTE OF EDUCATION SCIENCES (July 6, 2022), <https://ies.ed.gov/learn/blog/prioritizing-play-importance-play-based-learning-early-education>.
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- ¹⁴. Telephone Interview with Dr. Quincie Moore, Executive Director, SC Association of School Administrators; and staff (Aug. 15, 2024 and Sept. 24, 2024); see generally *Is it Disruptive or Age Appropriate? A Look at Common Early Childhood Behaviors*, ALLY PEDIATRIC THERAPY (June 24, 2024), <https://allypediatric.com/blog/is-it-disruptive-or-age-appropriate-a-look-at-common-early-childhood-behaviors/#:~:text=Age%20Appropriate%20Preschooler%20Behavior&text=and%20cognitive%20abilities.,Typical%20behaviors%20include:,sometimes%20result%20in%20mood%20swings> (an explanation of developmentally appropriate behaviors for preschoolers).
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¹⁷. *Id.*

¹⁸. Reibold, S., Zhang, L., Bailey, C., & Maxwell, M., Children’s Law Center (2024). South Carolina School District Survey. Unpublished raw data. The Committee on Children conducted a survey to gather information from South Carolina school districts about preschool codes of conduct and resources available to staff. Committee staff distributed the survey on July 18, 2024, using the online survey instrument Microsoft Forms. Staff received a total of 58 voluntary responses from participants as of August 20, 2024, including 55 traditional school districts and 3 charter school districts which constituted a 76% response rate. The survey data should be interpreted in the context of its self-report nature and limited scope due to the short timeframe for the administration of the survey.

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²¹. *Id.*

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²³. Lexington District 2 is a district with such a differentiated code of conduct.

Private Providers in Schools

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². See Natasha Malik-Soni ET AL., *Tackling healthcare access barriers for individuals with autism from diagnosis to adulthood*, vol. 91 PEDIATR. RES. 1028, 1029-30 (2022).

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⁴. Anna B. Mitchell and Valerie Nava, *SC’S autism population is growing. Can understaffed and underfunded schools meet their needs?*, THE POST AND COURIER (Oct. 27, 2024), https://www.postandcourier.com/education-lab/autism-underfunded-understaffed-classrooms/article_a4afc568-8278-11ef-8e00-7f248e876a2f.html; CONWAY 2024 FALL PUBLIC HEARING (SEPT. 10, 2024, 5 PM) (STATEMENT OF DAVID WARNER); JOINT CITIZENS AND LEGISLATIVE COMMITTEE ON CHILDREN, SPARTANBURG 2024 FALL PUBLIC HEARING, S.C. LEGISLATURE (SEPT. 24, 2024, 5 PM), [HTTPS://WWW.SCSTATEHOUSE.GOV/VIDEO/ARCHIVES.PHP](https://www.scstatehouse.gov/video/archives.php) (STATEMENT OF LESLIE ROBINSON).

⁵. *Id.*; CONWAY 2024 FALL PUBLIC HEARING (SEPT. 10, 2024, 5 PM) (STATEMENT OF DAVID WARNER); SPARTANBURG 2024 FALL PUBLIC HEARING (SEPT. 24, 2024, 5 PM) (STATEMENT OF LESLIE ROBINSON).

⁶. CONWAY 2024 FALL PUBLIC HEARING (SEPT. 10, 2024, 5 PM) (STATEMENT OF DAVID WARNER); SPARTANBURG 2024 FALL PUBLIC HEARING (SEPT. 24, 2024, 5 PM) (STATEMENT OF LESLIE ROBINSON).

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⁸. *Id.*

⁹. Memo from State of S.C. Dep't. of Educ., *Clarification on Applied Behavior Analysis (ABA) Therapy Access in Schools* (Sept. 10, 2024)(<https://ed.sc.gov/newsroom/school-district-memoranda-archive/clarification-on-applied-behavior-analysis-aba-therapy-access-in-schools/clarification-on-applied-behavior-analysis-aba-therapy-access-in-schools-memo/>).

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¹¹. La. Rev. Stat. § 17:173 (A)(1) (2024).

¹². *Id.*

Administrative Subpoena

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². See 18 U.S.C. § 3486(a) and 18 U.S.C. § 2703(d). The South Carolina Supreme Court ruled the circuit court was a court of competent jurisdiction for the purposes of § 2703(d) in *State v. Odom*, 382 S.C. 144, 676 S.E.2d 124 (2009).

³. Gates, *supra* note 1.

⁴. Alabama, Idaho, Illinois, Louisiana, Nevada, North Carolina, Ohio, Oregon, Rhode Island, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming. The New York Police Department also has subpoena power.

⁵. Ga. Code Ann. § 16-11-66.2(d) (2023).

⁶. N.C. Code Ann. §15A-298 (2023).

⁷. Tenn. Code Ann. § 40-17-123 (2023).

⁸. Ala. Code Ann. § 13A-8-115(d) (2023).

⁹. See Idaho Code § 19-3004A(3) (2022); R.I. Gen. Laws § 39-2-20.1(b)(1) (2016); Wy. Stat. Ann. § 9-1-640(a) and (b) (2005); Wis. Stat. § 165.505(2) (2023).

CSC with a Minor, Second Degree

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². S.C. Code Ann. § 23-3-540(B) and (G) (2007).

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⁴. S.C. Code Ann. § 16-3-651(H) (2015).

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- ³ *The Affordable Care Act 101*, KFF (July 29, 2024), <https://www.kff.org/health-policy-101-the-affordable-care-act/?entry=table-of-contents-who-can-enroll-in-individual-aca-marketplace-coverage>.
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- ⁵ See South Carolina Department of Health and Human Services, *Become a Provider*, HEALTHY CONNECTIONS MEDICAID, <https://www.scdhhs.gov/providers/become-provider> (last visited Mar. 13, 2025); Email from Rob Tester, Insurance Policy Director, PEBA SC Retirement Systems and State Health Plan, to Shealy Reibold, Senior Resource Attorney for the Joint Citizens and Legislative Committee on Children, Children’s Law Center (Nov. 20, 2024, 15:14 EST) (on file with author) (“... a license is generally a prerequisite to getting on the provider file and getting a claim paid.”).
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- ⁷ *Id.*
- ⁸ S.C. Code Ann. § 38-71-280 (Supp. 2013).
- ⁹ *Id.*
- ¹⁰ Healthy Horizons, *Difference Between Breastfeeding Certifications: IBCLC, CLC, CLE and Others*, HEALTHY HORIZONS (Oct. 6, 2020), [https://www.healthyhorizons.com/blogs/blog/difference-between-breastfeeding-certifications-ibclc-clc-cle-and-others#:~:text=Certified%20Lactation%20Counselor%20\(CLC\)%20%2D,Peer%20Educators](https://www.healthyhorizons.com/blogs/blog/difference-between-breastfeeding-certifications-ibclc-clc-cle-and-others#:~:text=Certified%20Lactation%20Counselor%20(CLC)%20%2D,Peer%20Educators).
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- ¹² *Id.*
- ¹³ *Id.*
- ¹⁴ Elizabeth C. Brooks, *IBCLC State Licensure (legal and equity implications)*, REACHING OUR SISTERS EVERYWHERE (Dec. 31, 2018), <https://breastfeedingrose.org/2019/01/02/ibclc-state-licensure-legal-and-equity-implications/>.
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- ¹⁶ ORS § 676.669(2023).
- ¹⁷ O.C.G.A. §§ 43-22A-3 (6), 43-22A-6, and 43-22A-7(2023).
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- ²⁰ *Raffensperger v. Jackson*, 316 Ga. 383, 398, 888 S.E.2d 483, 496 (2023).

Suicide Awareness Training and Student IDs

- ¹ 988 Suicide & Crisis Lifeline SC, MENTAL HEALTH AMERICA OF GREENVILLE COUNTY, <https://www.mhagc.org/988-suicide-crisis-lifeline-sc/> (last visited Mar. 11, 2025).

². *Id.*

³. *Id.*

⁴. Mental Health American of Greenville County has their youngest reported caller from 2022-2024 being 6 years old. The call was routed to their center so they were either located in SC or had a SC phone number. See Text Messages from Robin Crawford, Legislative Liaison, Department of Mental Health to Shealy Reibold, Senior Resource Attorney for the Joint Citizens and Legislative Committee on Children, Children's Law Center (Feb. 20, 2025) (on file with author).

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Donor Statute

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¹². *Id.*

¹³. Hawaii, Indiana, Iowa, Kentucky, Mississippi, Nebraska, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, and West Virginia.

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Nurturing our state's future.

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