## SOUTH CAROLINA BEST INTERESTS OF THE CHILD DEFINITION ACT

Dear Senator or Representative,

My name is _____, and I am respectfully requesting a brief 15 to 30 minute Zoom call to discuss proposed legislation for South Carolina that would clearly define the phrase “best interest of the child” in family court.

This bill is designed to create consistency, accountability, and evidence based decision making in custody and parenting time cases. Too often, families with similar facts receive different outcomes because the standard is vague and applied differently from courtroom to courtroom.

This proposal would define the term, protect children’s physical safety, psychological well being, emotional development, stability, and overall welfare, and require courts to connect decisions to evidence through written findings of fact and conclusions of law.

I would be grateful for the opportunity to discuss how this legislation can be adapted for South Carolina. Thank you for your time and public service.

Respectfully,
Name

# BACKGROUND FOR THE BILL

The phrase “best interest of the child” is one of the most important standards used in South Carolina family court proceedings. It affects custody, parenting time, visitation, parental decision making authority, and the parent child relationship itself.

When a legal standard is vague or undefined, it can result in broad judicial discretion, inconsistent rulings, prolonged litigation, and uncertainty for families and children. Similar cases may produce dramatically different outcomes depending upon the courtroom or county in which the case is heard.

A clear statutory definition promotes consistency, predictability, accountability, and evidence based decision making. It helps protect children while preserving meaningful relationships with fit parents whenever safe and appropriate.

This legislation does not prevent courts from protecting children from abuse, neglect, domestic violence, abandonment, or substantial harm. Instead, it provides courts with a clearly defined framework grounded in evidence and due process.

Written findings of fact and conclusions of law are necessary to ensure transparency, meaningful appellate review, and public confidence in the judicial system.

# BILL DRAFT

**Drafted by: Robert Garza**

# A BILL

To amend the Code of Laws of South Carolina relating to family court proceedings by defining the phrase “best interest of the child,” establishing evidentiary standards for substantial restrictions of parental rights, and requiring written findings of fact and conclusions of law.

# SECTION 1. SHORT TITLE.

This Act may be cited as the “South Carolina Best Interest of the Child Definition Act.”

# SECTION 2. LEGISLATIVE FINDINGS AND PURPOSE.

(A) The Legislature finds that the phrase “best interest of the child” is among the most important legal standards applied in family court proceedings involving custody, parenting time, visitation, and parental decision making authority.

(B) The Legislature further finds that inconsistent application of an undefined standard may result in unpredictable outcomes, increased litigation, diminished public confidence in the judicial system, and unnecessary harm to children and families.

(C) The purpose of this Act is to:

1. Promote consistency, accountability, and evidence based decision making in family court proceedings;
2. Protect the child’s physical safety, psychological well being, emotional development, stability, and overall welfare;
3. Preserve the child’s frequent, continuing, and meaningful relationship with both fit parents unless the court finds, by clear and convincing evidence, that such contact would cause substantial harm to the child;
4. Require courts to base substantial restrictions on parental rights upon competent evidence; and
5. Require written findings sufficient to permit meaningful appellate review.

# SECTION 3. DEFINITION.

(A) “Best interests of the child” means protecting the child’s physical safety, psychological well being, emotional development, stability, and overall welfare while preserving the child’s frequent, continuing, and meaningful relationship with both fit parents unless the court finds, by clear and convincing evidence, that such contact would cause substantial harm to the child.

(B) “Substantial restriction” means any court ordered limitation, reduction, suspension, supervision, denial, condition, or impairment affecting a parent’s custody, parenting time, possession, access, communication, or decision making authority.

## SECTION 4. EVIDENTIARY STANDARD.

A court may impose a substantial restriction upon a fit parent’s custody, parenting time, possession, access, visitation, communication, or decision making authority only upon clear and convincing evidence that the restriction is necessary to prevent substantial harm to the child.

## SECTION 5. REQUIRED FINDINGS.

(A) Any order substantially restricting a parent’s custody, parenting time, visitation, or decision making authority shall include written findings of fact and conclusions of law identifying the specific evidence supporting the restriction.

(B) The court shall enter such findings contemporaneously with the order.

(C) Failure to make the findings required under this section constitutes reversible error.

## SECTION 6. CONSTRUCTION.

Nothing in this Act shall be construed to prevent a court from taking immediate action necessary to protect a child from abuse, neglect, domestic violence, abandonment, or imminent harm.

## SECTION 7. EFFECTIVE DATE.

This Act takes effect upon approval by the Governor or upon the effective date otherwise provided by law.