From: Patel, Swati <SwatiPatel@gov.sc.gov>
To: Ken Moffitt <KenMoffitt@scsenate.gov>
Tom Young, Jr. <tyoung@tomyounglaw.com>
CC: Shane Massey <asmlaw30@bellsouth.net>
Veldran, Katherine <KatherineVeldran@gov.sc.gov>
Date: 5/5/2014 11:24:16 AM
Subject: RE: DSS

Thank you all for helping to get this bill fixed so quickly!

After I get the language, I will close the loop with DSS.

From: Ken Moffitt [mailto:KenMoffitt@scsenate.gov]
Sent: Monday, May 05, 2014 10:29 AM
To: Tom Young, Jr.
Cc: Shane Massey; Patel, Swati; Veldran, Katherine
Subject: Re: DSS

I have sent some language to Sen Massey for review. I will forward after his review and comment.

Kenneth M. Moffitt
Counsel to the Clerk
South Carolina Senate
(803) 212-6200

On May 5, 2014, at 10:28 AM, "Tom Young, Jr." <tyoung@tomyounglaw.com> wrote:

> Swati and Ken:
>
> I talked with Chairman Delleney this morning and he said that he would request it be returned. He said to get the language to Emma on House Judiciary.
>
> Tom
>
> ---
>
> **From:** Ken Moffitt [mailto:KenMoffitt@scsenate.gov]
> **Sent:** Friday, May 02, 2014 3:42 PM
> **To:** Shane Massey
> **Cc:** swatipatel@gov.sc.gov; Katherine Veldran; Tom Young
> **Subject:** Re: DSS
>
> Another thought came to mind. The House can request that the bill be returned and then they amend it and return it to the Senate. This is likely the "easiest" path.
>
> Kenneth M. Moffitt
> Counsel to the Clerk
> South Carolina Senate
> (803) 212-6200

On May 2, 2014, at 3:36 PM, "Shane Massey" <asmlaw30@bellsouth.net> wrote:

I've looked over 3124 and most of Title 63, Chapter 7 today. I've also talked with Ken about trying to fix 3124.

Here's what we're thinking. We have 1163 in the Senate. There's a companion in the House, 5015. We're going to work on an amendment, which I'll detail below, for those bills. Ken thinks it will probably be easier for us to take up a House bill than it will for the House to take up a Senate bill at this point.

Anyway, here's what I'm thinking.

SECTION 2 deals with unfounded cases. We're going to say DSS can respond in the media when information has been disclosed by a party in interest, government official, or alleged perpetrator. "Party in interest" is defined in 63-7-20(15) to include the child, the child's attorney and guardian ad litem, the natural parent, an individual with physical or legal custody of the child, the foster parent, and the local foster care review board. We're going to have to put some limitations on it, and this seems pretty expansive to me if we add public officials and alleged perpetrators. I'm hoping we can get Malloy to go along. If not, we may have to narrow the list.

We're going to say DSS can respond to a legislative committee in public session if information about the case has already been disclosed publicly.

We're going to say DSS can discuss unfounded cases with a legislative committee in closed session if information has not already been disclosed publicly.

SECTION 3 deals with founded cases (I think it's founded cases. 63-7-1990 is really all over the place). We're thinking about keeping (G) as it is and maybe expanding the list to include parties in interest. I just don't think we can get a blanket disclosure past Malloy. I would be OK with a blanket disclosure in indicated cases, but I don't know we can sell it to Malloy.

We're going to add an additional subsection for legislative committees and do the same thing as in unfounded cases.

I'm not planning to mess with SECTION 4.

Ken is going to work on some language, and hopefully we'll be able to look at it sometime Monday.

By the way, I think 63-7-400 would probably protect the director. It's certainly within the scope of her official duties to communicate with and respond to the legislature.

SECTION 63-7-400. Department of Social Services immunity from liability.

An employee, volunteer, or official of the Department of Social Services required or authorized to perform child protective or child welfare-related functions or an individual with whom the department has contracted to convene family group conferences or a law enforcement officer required or authorized to perform child protective or child welfare related functions is immune from civil or criminal liability

which might otherwise result by reason of acts or omissions within the scope of the official duties of the employee, volunteer, convener, officer, or official, as long as the employee, volunteer, convener, officer, or official acted in good faith and was not reckless, wilful, wanton, or grossly negligent. In all such civil or criminal proceedings good faith is rebuttably presumed. This grant of immunity is cumulative to and does not replace any other immunity provided under the South Carolina Tort Claims Act.

A. Shane Massey
Nance, McCants & Massey
P.O. Box 2881
Aiken, SC 29802
803-649-6200, ext. 30
fax: 803-649-2525

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2014.0.4577 / Virus Database: 3931/7426 - Release Date: 05/01/14