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Subject: H. 3102 - DSS Transparency amendment

Dear Rita and Emma,

I wanted to give you a heads up that the Senate has amended H. 3102 with a revised version of the DSS Transparency language. The amendment is below.

This amendment does not include an immunity provision. Also, the language is more restrictive as to when cases can be disclosed.

The Senate should give third reading to the bill as amended tomorrow. Please call me anytime if you have any questions. My cell is 665-0259.

SECTION 1. Section [63-7-940](#)(A)(7) and (8) of the 1976 Code is amended to read:

"(7) as authorized in Section [63-7-2000](#); and
(8) the Department of Child Fatalities pursuant to Section 63 11 1960; and
(9)(a) the director or his designee who may disclose information for the following purposes:
(i) to confirm, clarify, or correct information concerning a case that has been made public by the alleged perpetrator, the alleged perpetrator's attorney, or the party in interest to the case;
(ii) if information or an allegation about the report has been placed in the public domain, as defined in Section [63-7-1990](#)(G)(1), to respond in public testimony to an inquiry by a committee or subcommittee of the Senate or the House of Representatives, or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department.
(iii) if information or an allegation about the report has not been placed in the public domain, to respond to an inquiry by a committee or subcommittee of the Senate or the House of Representatives or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department, provided that such information is reviewed in closed session and kept confidential. Notwithstanding the provisions of Chapter 4, Title 30, meetings to review information disclosed pursuant to this subitem may be held in closed session and any documents or other materials provided or reviewed during the closed session are not subject to public disclosure.
(b) The department must state that the case was unfounded when disclosing information pursuant to this item.
(c) For the purposes of this item, 'party in interest' shall have the same meaning as in Section [63-7-20](#), and shall also include a child's grandparents and siblings."

SECTION 2. Section [63-7-1990](#)(G) of the 1976 Code is amended to read:

"(G)(1) The state director of the department or the director's designee may disclose to the media information contained in child protective services records if the disclosure is limited to discussion of the department's activities in handling the case including information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, the party in interest, or other public judicial proceedings, or through testimony to a committee or subcommittee of the Senate or the House of Representatives or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department. For purposes of this subsection, information is considered 'placed in the public domain' when it has been reported in the news media, is contained in public records of a criminal justice agency, is contained in public records of a court of law, or has been the subject of testimony in a public judicial or legislative proceeding.
(2) The director or his designee shall disclose information in records required to be kept confidential pursuant to subsection (A) to respond to an allegation made in public testimony before a committee or subcommittee of the Senate or the House of Representatives, or a joint committee of the General Assembly, which is engaged in oversight

or investigating the activities of the department.

(3) The director or his designee shall disclose information in records required to be kept confidential pursuant to subsection (A) to respond to an inquiry, concerning information not placed in the public domain, from a committee or subcommittee of the Senate or the House of Representatives or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department. The information shall be reviewed in a closed session and kept confidential, unless the information has been made public by the party in interest and is required for a response to a question asked by a Senator or a member of the House of Representatives in a public meeting, a committee or subcommittee of the Senate or the House of Representatives, or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department. Notwithstanding the provisions of Chapter 4, Title 30, meetings to review information disclosed pursuant to this item may be held in closed session and any documents or other materials provided or reviewed during the closed session are not subject to public disclosure.

(4) For the purposes of this subsection, 'party in interest' shall have the same meaning as in Section 63-7-20, and shall also include a child's grandparents and siblings."

SECTION 3. Section 63-7-1990(H) of the 1976 Code is amended to read:

"(H) The state director or the director's designee is authorized to prepare and release reports of the results of the department's investigations into the deaths of children in its custody or receiving child welfare services at the time of death.(1) In cases of child abuse or neglect resulting in a child fatality or near fatality of a child, the department, upon request, shall make public a report containing the following information:

- (a) the age of the child;
- (b) the gender of the child;
- (c) information describing all previous reports or child abuse or neglect investigations by the department or any third party contracted with the department relating to the child;
- (d) all services provided by the department or any third party contracted with the department to the child regarding child abuse or neglect; and
- (e) all actions taken by the department or any third party contracted with the department relating to the child regarding child abuse or neglect.

(2) For purposes of subsection (H), 'near fatality' is defined as an act that, as certified by a physician, places the child in serious or critical condition.

(3) The director or his designee may choose not to make a public report pursuant to subsection (H) in the following circumstances:

- (a) the report would endanger the child, the child's parent or guardian, or member of the child's family;
- (b) the report would interfere in a criminal investigation; or
- (c) the report would disclose the identity of a person who made a report of child abuse or neglect regarding the child."

SECTION 4. Section 17-5-540 of the 1976 Code is amended to read:

"Section 17-5-540. The coroner or medical examiner, within twenty four hours or one working day, whichever occurs first, must notify the Department of Child Fatalities when a child dies in the county he serves:

- (1) as a result of violence, when unattended by a physician, and;
- (2) in any suspicious or unusual manner; or
- (3) when the death is unexpected and unexplained including, but not limited to, possible sudden infant death syndrome.

For the purposes of this section, a child is not considered to be "unattended by a physician" when a physician has, before death, provided diagnosis and treatment following a fatal injury."

SECTION 5. This act takes effect upon approval by the Governor.

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