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CC: Mottel, Haley <HaleyMottel@gov.sc.gov>
Veldran, Katherine <KatherineVeldran@gov.sc.gov>
Date: 5/19/2014 11:30:07 AM
Subject: RE: 3124 Draft Amendment

Lillian,

I got your message about this bill. Sorry I was in an meeting.

The Senate non-concurred with H. 3124 which will now move it to a conference committee. The Senate non-concurred because of changes that still need to be made per our discussions a couple of weeks ago. Unfortunately, the House did not agree to receive the bill back and make these changes. The Senate and House understand that free conference (2/3rd vote) will be needed to make sure we have language that DSS is comfortable with which is based on my conversation with you on May 8 (see email below).

I have copied, Haley Mottel, who is tracking this bill in our office and working with Senate staffers and will make sure DSS is kept in the loop as the bill moves in conference. She can work with William as well.

FYI – the Senate is also looking for other vehicles to attach the transparency language to.

Swati

From: Patel, Swati
Sent: Thursday, May 08, 2014 4:46 PM
To: 'Williamson, Virginia'; lillian.b.koller@gmail.com
Subject: FW: 3124 Draft Amendment

Per my conversation with Lillian this morning, I communicated to the Senate the below information.

The amendment is being reviewed by Senators this weekend and then they will let me know how they plan to move the bill.

From: Ken Moffitt [<mailto:KenMoffitt@scsenate.gov>]
Sent: Thursday, May 08, 2014 4:42 PM
To: Patel, Swati
Cc: 'Shane Massey'; 'Tom Young, Jr.'; Mottel, Haley; Edward Bender
Subject: RE: 3124 Draft Amendment

Swati:

I have spoken to Sens. Young and Massey. They agree that the intent expressed within the proposed language is for the current immunity statute (63-7-400) to apply to 63-7-940 as amended.

Ken

From: Patel, Swati [<mailto:SwatiPatel@gov.sc.gov>]
Sent: Thursday, May 08, 2014 4:25 PM
To: Ken Moffitt
Cc: 'Shane Massey'; 'Tom Young, Jr.'; Mottel, Haley; Edward Bender
Subject: RE: 3124 Draft Amendment

Senators and Ken,

Here are the final comments from DSS:

- (1) They will accept the definition of "party in interest" as is. The reason is because DSS can still speak publicly about an unfounded case (i.e. Messenger case) in a legislative hearing if information about that case was already put in the public domain pursuant to 940(A)(9)(a)(ii). For example, the Messenger case could be discussed in open session of a legislative committee because it has already been put forth in the public domain (Note: the attorney that made the information public is not a "party in interest").
- (2) Thank for adding the reference. That will clearly allow DSS to speak about the Messenger case per the above explanation.
- (3) Can we get clarification that the Senate does intend that the current immunity statute (63-7-400) also applies to 63-7-940 as amended? Assuming so, the amendment is good to go.

Thanks,
Swati

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From: Ken Moffitt [<mailto:KenMoffitt@scsenate.gov>]
Sent: Wednesday, May 07, 2014 5:36 PM
To: Patel, Swati
Cc: 'Shane Massey'; 'Tom Young, Jr.'; Mottel, Haley; Edward Bender
Subject: RE: 3124 Draft Amendment

Edward Bender and I have reviewed the suggested changes.

- (1) The definition of "party in interest" already includes the attorney for the child. (See below) So, we do not think that is necessary. However, adding the reference to the attorney for the alleged perpetrator seems appropriate.
- (2) I believe that is the intent, we recommend making the reference to the definition in 1990(G).
- (3) We disagree with that analysis. 940 is essentially an exception to 400. Putting in that reference would confuse matters and basically eliminate it as an exception. We do not recommend making that change.

Section 63-7-20(15) "Party in interest" includes 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.

From: Patel, Swati [<mailto:SwatiPatel@gov.sc.gov>]
Sent: Wednesday, May 07, 2014 4:58 PM

To: Ken Moffitt
Cc: 'Shane Massey'; 'Tom Young, Jr.'; Mottel, Haley
Subject: RE: 3124 Draft Amendment

Senators and Ken,

Here are 3 comments to the amendment from DSS:

- (1) Can we add to Section 63-7-940(A)(9)(a)(i) "...made public by the alleged perpetrator or the party in interest, or the attorney representing the alleged perpetrator or the party in interest, to the case;"
- (2) Is it your intent that "public domain" in Section 63-7-940(A)(9)(a)(ii) means the same thing in Section 63-7-1990(G)(1)? If so, can we add the definition (reference to the definition) in 940 too?
- (3) Can we make a reference in Section 63-7-940(B) which is the statute creating the criminal and civil liability to the current immunity language in Section 63-7-400 as follows: "Section 63-7-400 shall apply in any civil or criminal action brought pursuant to this subsection." The reason is because 63-7-400 was enacted before the civil action statute, 63-1-940(B), was enacted; therefore a litigant could make a good argument that the General Assembly did not intend to give immunity for civil liability in cases that could arise through actions taken under this bill.

Thanks,
Swati

From: Ken Moffitt [<mailto:KenMoffitt@scsenate.gov>]
Sent: Wednesday, May 07, 2014 1:39 PM
To: Patel, Swati
Cc: 'Shane Massey'; 'Tom Young, Jr.'
Subject: 3124 Draft Amendment

Attached is the recommended language that we have discussed.