

From: Edward Bender <EdwardBender@scsenate.gov>
To: Williamson, VirginiaVirginia.Williamson@dss.sc.gov
CC: Veldran, KatherineKatherineVeldran@gov.sc.gov
Date: 4/8/2014 4:57:32 PM
Subject: Re: S. 1163

Ginny - because of issues unrelated to what we've discussed (coroner related issues) we aren't going to take up the language we discussed. Assuming this bill passes out today Sen. Young wants to propose the language we discussed as an amendment on the floor.

On Apr 8, 2014, at 1:50 PM, "Williamson, Virginia" <Virginia.Williamson@dss.sc.gov> wrote:

Edward: Thank-you very much for considering.

I want to point out one technical change for 63-7-1990(H)(d).

(d) information describing all previous reports of child abuse or neglect reports or investigations by the department or any third party contracted with the department that are pertinent to the child abuse or neglect that led to the fatality or near fatality;

I had suggested changing the original amendment to read: “(d) information describing **all previous reports or child abuse or neglect investigations** by the department or any third party contracted with the department that are pertinent to the child abuse or neglect that led to the fatality or near fatality;” The intent of the CAPTA policy is to have DSS prepare a CAPTA public report using any information in its records concerning past reports or child abuse or neglect investigations, rather than using information that might be found in “reports of child abuse or neglect reports or investigations.” Also, CAPTA wants disclosure even if the report was not determined to be a report that met the legal definition of child abuse or neglect .

Please feel free to call me if you have any questions. My direct line is 898-7621.

Ginny

Virginia E Williamson
General Counsel
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1535 Confederate Ave. Ext.
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From: Edward Bender [<mailto:EdwardBender@scsenate.gov>]
Sent: Tuesday, April 08, 2014 1:06 PM
To: Williamson, Virginia
Cc: Veldran, Katherine
Subject: RE: S. 1163

Ginny and Katherine –

I've copied and pasted the proposed language for amendment to 1163 that Ginny and I discussed yesterday. I've highlighted the changes. Let me know if you have questions.

“(I) to confirm, clarify, or correct information concerning a case that has been made public by sources other than the department in official statements;

(I) to respond to an inquiry 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, 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 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; and

(I) for the purposes of issuing public reports pursuant to Section 63-7-1990(H).”

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

“(G) 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, or other public judicial proceedings. 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 proceeding. The director or his designee may disclose information in records required to be kept confidential by subsection (A) to confirm, clarify, or correct information concerning a case that has been made public by sources other than the department in official statements or for purposes of issuing public reports pursuant to Section 63-7-1990(H). The director or his designee shall disclose information in records required to be kept confidential by subsection (A) to respond to an inquiry 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, 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 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. A person may not bring an action for damages based on the disclosure of information pursuant to this subsection except for damages resulting from gross negligence or reckless or intentional misconduct.”

SECTION 4. 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) the cause of and circumstances regarding the fatality or near fatality;
- (d) information describing all previous reports of child abuse or neglect reports or investigations by the department or any third party contracted with the department that are pertinent to the child abuse or neglect that led to the fatality or near fatality;
- (e) all services provided by the department or any third party contracted with the department that are pertinent to the child abuse or neglect that led to the fatality or near fatality; and
- (f) all actions taken by the department or any third party contracted with the department that are pertinent to the child abuse or neglect that led to the fatality or near fatality.

(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."

From: Williamson, Virginia [<mailto:Virginia.Williamson@dss.sc.gov>]

Sent: Monday, April 07, 2014 5:01 PM

To: Edward Bender

Cc: Veldran, Katherine

Subject: RE: S. 1163

Edward:

Below are the federal policy statement and a table I used to help me compare the policy with the amendment.

The federal Child Welfare Policy Manual, from the Children's Bureau, a division of the Administration for Children and Families, says:

8. Question: Section 106(b)(2)(B)(x) of CAPTA requires states to provide for the public disclosure of findings or information about a case of child abuse or neglect which results in a child fatality or near fatality. Under this provision, is there information that a state must disclose to the public?

Answer: Yes. States must develop procedures for the release of information including, but not limited to: the cause of and circumstances regarding the fatality or near fatality; the age and gender of the child; information describing any previous reports or child abuse or neglect investigations that are pertinent to the child abuse or neglect that led to the fatality or near fatality; the result of any such investigations; and the services provided by and actions of the State on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.

State policies must ensure compliance with any other relevant federal confidentiality laws, including the

confidentiality requirements applicable to titles IV-B and IV-E of the Social Security Act. States may allow exceptions to the release of information in order to ensure the safety and well-being of the child, parents and family or when releasing the information would jeopardize a criminal investigation, interfere with the protection of those who report child abuse or neglect or harm the child or the child's family

Amendment	Federal Policy
[Not addressed in the amendment]	"...the cause of and circumstances regarding the fatality or near fatality..."
"(c) information describing all previous reports of child abuse or neglect investigations by the department or any third party contracted with the department relating to the child;"	"...information describing any previous reports or child abuse or neglect investigations that are pertinent to the child abuse or neglect that led to the fatality or near fatality..."
"(d) all services provided by the department or any third party contracted with the department to the child regarding child abuse or neglect;"	"...the services provided by and actions of the State on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality."
"(e) all actions taken by the department or any third party contracted with the department relating to the child regarding child abuse or neglect."	"...the services provided by and actions of the State on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality."

Ginny

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From: Edward Bender [<mailto:EdwardBender@scsenate.gov>]
Sent: Monday, April 07, 2014 4:57 PM
To: Williamson, Virginia
Cc: Veldran, Katherine
Subject: RE: S. 1163

Thanks Ginny.

Could you also send me the "pertinent to" language we discussed? Thanks,

Edward

From: Williamson, Virginia [<mailto:Virginia.Williamson@dss.sc.gov>]
Sent: Monday, April 07, 2014 2:44 PM
To: Edward Bender
Cc: Veldran, Katherine
Subject: RE: S. 1163

Edward: Thank-you for helping me understand choices made in the amendment and for listening to our suggestions.

As promised, here is the language we would suggest inserting into Section 2 of the amendment: "() for the purpose of issuing public reports pursuant to Section 63-7-1990(H)."

If I can ever assist you, please do not hesitate to contact me at 898-7621.

Ginny

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From: Edward Bender [<mailto:EdwardBender@scsenate.gov>]

Sent: Monday, April 07, 2014 10:39 AM

To: Williamson, Virginia

Cc: Veldran, Katherine

Subject: RE: S. 1163

Ginny –

Thanks for the email. Can you call me at 2 pm today? 212.6408. Or let me know if that doesn't work. Thanks.

Edward

From: Williamson, Virginia [<mailto:Virginia.Williamson@dss.sc.gov>]

Sent: Monday, April 07, 2014 9:57 AM

To: Edward Bender

Cc: Veldran, Katherine

Subject: S. 1163

Edward: Good morning.

Do you have time today for me to call you about the CAPTA-related amendments to S. 1163? We support your idea to put the federal requirements in statute, rather than leaving them for DSS to implement via policy. We wanted to suggest some tweaks to the proposed amendment.

What time would be convenient for you? I am not available between 10:00 and 11:30 today.

If you would prefer, I can come to your office.

Ginny

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