COMMITTEE REPORT

March 19, 2014

**H. 3124**

Introduced by Reps. Bingham, Taylor, Long and M.S. McLeod

S. Printed 3/19/14--S.

Read the first time May 1, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3124) to amend the Code of Laws of South Carolina, 1976, by adding Section 63‑7‑315 so as to prohibit an employer from dismissing, demoting, suspending, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, beginning on page 1, by striking SECTION 1 and inserting therein the following:

/ SECTION 1. Subarticle 1, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Section 63-7-315. (A) An employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee who is required or permitted to report child abuse or neglect pursuant to Section 63-7-310 based on the fact that the employee has made a report of child abuse and neglect.

(B) An employee who is adversely affected by conduct that is in violation of subsection (A) may bring a civil action for reinstatement and back pay. An action brought pursuant to this subsection may be commenced against an employer, including the State, a political subdivision of the State, and an office, department, independent agency, authority, institution, association, or other body in state government. An action brought pursuant to this subsection must be commenced within three years of the date the adverse personnel action occurred.

(C) In an action brought pursuant to subsection (B), the court may award reasonable attorneys fees to the prevailing party; however, in order for the employer to receive reasonable attorneys fees pursuant to this subsection, the court must make a finding pursuant to Section 63‑7‑2000 that: (1) the employee made a report of suspected child abuse or neglect maliciously or in bad faith; or (2) the employee is guilty of making a false report of suspected child abuse or neglect pursuant to Section 63‑7‑440.” /

Renumber sections to conform.

Amend title to conform.

CREIGHTON B. COLEMAN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Social Services

The Department of Social Services estimates this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

Judicial Department

The department indicates that this bill will have a minimal impact on the General Fund of the State, which the agency can absorb at their current level of funding. There is no data available to indicate the number of new lawsuits which may be initiated as a result of this bill; however if the number of new cases created is significant the dockets may be negatively impacted.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑7‑315 SO AS TO PROHIBIT AN EMPLOYER FROM DISMISSING, DEMOTING, SUSPENDING, OR DISCIPLINING AN EMPLOYEE WHO REPORTS CHILD ABUSE OR NEGLECT, WHETHER REQUIRED OR PERMITTED TO REPORT; AND TO CREATE A CAUSE OF ACTION FOR REINSTATEMENT AND BACK PAY WHICH AN EMPLOYEE MAY BRING AGAINST AN EMPLOYER WHO VIOLATES THIS PROHIBITION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Subarticle 1, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Section 63‑7‑315. (A) An employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee or prospective employee who is required or permitted to report child abuse or neglect pursuant to Section 63‑7‑310.

(B) An employee or prospective employee who is adversely affected by conduct that is in violation of subsection (A) may bring a civil action for reinstatement and back pay. An action brought pursuant to this subsection may be commenced against an employer, including the State, a political subdivision of the State, and an office, department, independent agency, authority, institution, association, or other body in state government. An action brought pursuant to this subsection must be commenced within three years after the cause of action arises.

(C) If judgment is rendered in favor of the plaintiff in an action brought pursuant to subsection (B), the court also shall award a reasonable attorney’s fee in favor of the plaintiff against the defendant.”

SECTION 2. This act takes effect upon approval by the Governor.

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