~~Indicates Matter Stricken~~

Indicates New Matter

FREE CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 17, 2014

**H. 3124**

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

S. Printed 4/15/14--S.

Read the first time May 1, 2013.

**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; TO CREATE A CAUSE OF ACTION FOR REINSTATEMENT AND BACK PAY; AND TO AUTHORIZE AN AWARD OF ATTORNEY’S FEES TO THE PREVAILING PARTY UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63‑7‑940, RELATING THE USE OF UNFOUNDED CASE INFORMATION IN CHILD ABUSE AND NEGLECT CASES, SO AS TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES MAY DISCLOSE INFORMATION PUT IN THE PUBLIC DOMAIN BY THE PARTY IN INTEREST IN AN ABUSE OR NEGLECT CASE; AND TO AMEND SECTION 63‑7‑1990, RELATING TO THE CONFIDENTIALITY AND RELEASE OF CHILD ABUSE AND NEGLECT INFORMATION AND RECORDS MAINTAINED BY THE DEPARTMENT, SO AS TO AUTHORIZE THE DIRECTOR TO DISCLOSE LIMITED CONFIDENTIAL INFORMATION, TO RESPOND TO AN ALLEGATION MADE BY THE ALLEGED PERPETRATOR, THE ATTORNEY FOR THE ALLEGED PERPETRATOR, THE PARTY IN INTEREST, OR OTHER PUBLIC OFFICIALS IN PUBLIC TESTIMONY BEFORE CERTAIN COMMITTEES, SUBCOMMITTEES, AND JOINT COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES AND TO DISCLOSE LIMITED INFORMATION TO RESPOND TO AN INQUIRY FROM CERTAIN COMMITTEES, SUBCOMMITTEES, AND JOINT COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES IN CLOSED SESSION AND TO PROVIDE THAT THIS INFORMATION MUST BE KEPT CONFIDENTIAL AND IS NOT SUBJECT TO PUBLIC DISCLOSURE.

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 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 attorney’s fees to the prevailing party; however, in order for the employer to receive reasonable attorney’s 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.”

SECTION 2. Section 63‑7‑940(A)(7) and (8) of the 1976 Code are 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 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 must 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 shall state that the case was unfounded when disclosing information pursuant to this item.”

SECTION 3. 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. 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.

(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 by the alleged perpetrator, the attorney for the alleged perpetrator, the party in interest, or other public officials 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. The department’s response is limited to discussion of the department’s activities in handling the case relating to the allegation made in public testimony.

(3) For all other information not subject to disclosure pursuant to subsection (G)(2), the director or his designee shall disclose information in records required to be kept confidential pursuant to 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. The information must be reviewed in a closed session and kept confidential. Notwithstanding the provisions of Chapter 4, Title 30, meetings to review information disclosed pursuant to this item must be held in closed session and any documents or other materials provided or reviewed during the closed session are not subject to public disclosure.”

SECTION 4. This act takes effect upon approval by the Governor.

/s/Sen. A. Shane Massey /s/Rep. Bruce W. Bannister

Sen. Creighton B. Coleman /s/Rep. Peter M. McCoy, Jr.

/s/Sen. Tom Young, Jr. /s/Rep. David Weeks

On Part of the Senate. On Part of the House.

‑‑‑‑XX‑‑‑‑