



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3442 Amended by Senate Judiciary on May 3, 2017
Author: Delleney
Subject: Adoption
Requestor: Senate Judiciary
RFA Analyst(s): Shuford
Impact Date: May 15, 2017

Estimate of Fiscal Impact

	FY 2017-18	FY 2018-19
State Expenditure		
General Fund	\$597,225	\$0
Other and Federal	\$1,078,020	\$0
Full-Time Equivalent Position(s)	20.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

The additional petitions for adoption of a child would increase the workload of Department of Social Services (DSS) attorneys in evaluating and responding to these legal proceedings. Based on an estimated 25 percent increase in the number of attorneys necessary to meet the increased legal caseload, the DSS would increase the number of agency attorneys by 15 along with 5 paralegal positions. These 20 FTEs would increase total expenditures by \$1,675,245 in FY 2017-18 to include salaries, employee fringe, and other operating expenses estimated at 16 percent of salaries and employer fringe. Of this total, \$597,225 would be General Fund expenditures and \$1,078,020 would be Federal Funds expenditures. This amount of additional expenditures represents a 14 percent increase in the \$11,700,000 that DSS spends on legal services on an annual basis. If the additional workload assumption were realized, DSS would need to request additional appropriations to fund the General Fund portion of these additional expenditures.

Explanation of Fiscal Impact

Amended by Senate Judiciary on May 3, 2017

State Expenditure

The bill as amended provides a petition for adoption may be filed regardless of which individual or entity has custody of a child. When DSS has custody of a child, the rights of South Carolina residents and nonresidents to petition for adoption are not diminished or negated. However, no person shall have standing to petition the court to adopt unless the person has the necessary consents or relinquishments required pursuant to Sections 63-9-310 and 63-9-320. These sections require consent from the adoptee if over age 14, the parents, or the child placing agency in the situation where the agency has been granted legal authority. Consent is not required when

the rights of the parents have been terminated, when the parent is mentally incapable as determined by family court, or when a child is conceived because of the parent's criminal sexual conduct or incest.

Further, the amended bill repeals Section 63-9-60(B) thereby allowing legal standing to a South Carolina resident or nonresident to file a petition for the adoption of a child placed for adoption by DSS or any agency under contract with DSS. Additionally, the amended bill would allow a petition for adoption of a child to be filed regardless of which individual or agency has custody of the child.

The additional petitions permitted by the amended bill could occur at any point between when DSS has been awarded custody of a child and when parental rights are terminated by the court. Currently, parties do not have standing to petition for adoption once a child is in DSS custody as established by statutes and court rulings.

The amended bill deletes the authorization for nonresidents to petition family court to adopt a child based on public notoriety concerning the child or the family. Residents and nonresidents are prohibited from using public notoriety to support petitions for adoption. The amended bill adds also to the list of exemptions that would allow a nonresident of South Carolina to petition to adopt a child. The exemptions include situations where all persons required to give consent pursuant to Section 63-9-310 have specifically consented to the adoption by a nonresident and the Department of Social Services or any agency under contract with DSS has placed the child with the nonresident for purposes of adoption. Family court must make and include in its order specific findings of fact as to the circumstances allowing a child's placement for adoption by a nonresident. We anticipate that these modifications will have a minimal, if any, expenditure impact on DSS and the Judicial Department.

In FY 2015-16, DSS reports that 4,300 children were in DSS foster care. Of the children exiting foster care:

- 12 percent were adopted.
- 44 percent were reunified with a parent.
- 36 percent were permanently placed with relatives.
- 7 percent of the children reached age 18 and left foster care.
- 1 percent were emancipated or left foster care for other reasons.

These children spent an average of one year in foster care.

Department of Social Services. The additional adoption petitions projected by the agency may increase the workload of DSS attorneys in evaluating and responding to these petitions. DSS estimates that a 25 percent increase in the number of attorneys may be necessary to meet the increased legal caseload. Presently, there are 61 FTE attorney positions at DSS. A 25 percent increase would represent 15 new attorney FTE positions requiring 5 paralegal positions for legal casework support. These 20 FTEs would increase total expenditures by \$1,675,245 in FY 2017-

18 to include salaries, employee fringe, and other operating expenses estimated at 16 percent of salaries and employer fringe. Of this total, \$597,225 would be General Fund expenditures and \$1,078,020 would be Federal Funds expenditures. This amount of additional expenditures represents a 14 percent increase in the \$11,700,000 that DSS spends on legal services on an annual basis. If the additional workload assumption were realized, DSS would need to request additional appropriations to fund the General Fund portion of these additional expenditures.

A reduction in DSS legal proceedings necessary to permanently place a child or child welfare casework for foster care and to reunify a family would potentially offset the additional expenditures estimated above. However, DSS staff report that a parent and the agency rarely agree on matters relating to the permanent placement of child. The overwhelming majority of adoptions require DSS to petition the court for termination of parental rights. DSS indicates further that it is a rare occurrence when both parents consent to adoption and no other parties request to adopt the child, other than those selected by DSS for permanent placement. Due to a lack of data necessary to estimate cost savings and the DSS staff observations above, we are unable to determine any amount of cost savings from the potential legal and casework reductions from bill as reported by the Senate Judiciary Committee.

Judicial Department. The department indicates that additional hearings may be necessary to consider the potential increased number of petitions to adopt a child as allowed by the Senate Judiciary Committee report. It is unclear if the additional number of petitions would require a corresponding increase in the number of hearings, or if the additional petitions could be incorporated within the current hearing caseload. There are no data available to estimate the number of additional hearings that may be held in family court, but the number is not expected to be significant. Therefore, the department anticipates managing any additional hearings within current resources. If the number of additional hearings does increase significantly, the result could be a backlog of cases in family court.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A

Introduced on January 12, 2017

State Expenditure

This bill adds to the list of exemptions that would allow a nonresident of South Carolina to petition to adopt a child. The exemptions include situations where a parent has specifically consented to the adoption by a nonresident and the Department of Social Services or any agency under contract with DSS has placed the child with the nonresident for purposes of adoption. Family court must make and include in its order specific findings of fact as to the circumstances allowing a child's placement for adoption by a nonresident.

In addition, the bill provides a petition for adoption may be filed regardless of which individual or entity has custody of a child. The rights of South Carolina residents and nonresidents to petition for adoption are not diminished or negated when DSS has custody.

Department of Social Services. DSS indicates that the repeal of Section 63-9-60(B), as proposed by this bill, would allow parties to file a petition for the adoption of a child placed for adoption by DSS or any agency under contract with DSS. Current statute and court rulings have found that parties, such as foster parents or nonresidents, do not have standing to file a petition action. These additional petitions would increase the workload of DSS attorneys in evaluating and responding to these legal proceedings. Based on a 50 percent increase in adoption petitions, DSS estimates a 25 percent increase in the number of attorneys would be necessary to meet the increased legal caseload. Presently, there are 61 FTE attorney positions at DSS. A 25 percent increase would represent 15 new attorney FTE positions requiring 5 paralegal positions for legal casework support. These 20 FTEs would increase total expenditures by \$1,675,245 in FY 2017-18 to include salaries, employee fringe, and other operating expenses estimated at 16 percent of salaries and employer fringe. Of this total, \$597,225 would be General Fund expenditures and \$1,078,020 would be Federal Funds expenditures.

Judicial Department. The bill allows additional circumstances where a nonresident of South Carolina may adopt a child. There are no data available to estimate the number of additional hearings that may be held in family court, but the number is not expected to be significant. Therefore, the department anticipates managing any additional hearings within current resources. If the number of additional hearings does increase significantly, the result could be a backlog of cases in family court.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director