



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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**Bill Number:** H. 3196    Introduced on January 10, 2023  
**Author:** Bailey  
**Subject:** Attorney Fees, DSS Actions  
**Requestor:** House Judiciary  
**RFA Analyst(s):** Boggs  
**Impact Date:** April 19, 2023

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### **Fiscal Impact Summary**

This bill allows the prevailing party to recover reasonable attorney's fees from DSS in cases involving child abuse and neglect actions where the court finds DSS has acted without substantial justification in pressing its claims.

DSS anticipates this bill will increase the agency's expenditures in fees paid to outside legal counsel who are representing the other party. However, it is up to the court to determine whether DSS acted without substantial justification and to award attorney fees. In 2022, DSS had a dismissal or denial of 85 termination of parental rights (TPR) actions and 52 merit cases. DSS estimates that average attorney fees for each TPR case is \$20,000 and each merit case is \$10,000. There are no data to determine the number of these cases that will be found unjustified, and therefore, require DSS to pay opposing council's attorney's fees. Therefore, the expenditure impact on DSS is undetermined.

### **Explanation of Fiscal Impact**

#### **Introduced on January 10, 2023**

#### **State Expenditure**

This bill allows the prevailing party to recover reasonable attorney's fees from DSS in cases brought by DSS involving child abuse and neglect actions where the court finds DSS has acted without substantial justification in pressing its claims. Currently, these actions are exempt from the possibility of paying attorney's fees. This bill removes the exemption.

According to DSS, this has the potential to increase the agency's expenditures in fees paid to outside legal counsel who are representing the other party. In 2022, DSS resolved 452 TPR actions. Of those, 85 were either dismissed or denied, and therefore, under this bill, may be eligible for recovery of attorney's fees from DSS. DSS estimates potential attorney fees of \$20,000 per TPR case. Additionally, in 2022, DSS held 1,047 merit hearings. DSS estimates that 5 percent, or 52, of those cases were dismissed or denied, and therefore, under this bill, may be eligible for award of attorney's fees from DSS. DSS estimates potential attorney fees to be \$10,000 per merit case. Only cases where the court finds DSS has acted without substantial justification in pressing its claims are eligible for recovery of attorney's fees. There are no data

to determine the number of these cases that will be found unjustified. Therefore, the expenditure impact on DSS is undetermined.

**State Revenue**

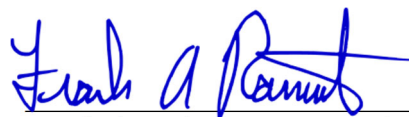
N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director