



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** H. 3442 Signed by Governor on April 4, 2018  
**Author:** Delleney  
**Subject:** Adoption  
**Requestor:** House of Representatives  
**RFA Analyst(s):** Shuford  
**Impact Date:** June 22, 2018

**Estimate of Fiscal Impact**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>State Expenditure</b>		
General Fund	\$271,389	\$0
Other and Federal	\$489,870	\$0
Full-Time Equivalent Position(s)	9.00	0.00
<b>State Revenue</b>		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
<b>Local Expenditure</b>	\$0	\$0
<b>Local Revenue</b>	\$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 11 percent increase in the number of attorneys necessary to meet the increased legal caseload, DSS will increase the current 61 FTE attorney positions by 7 along with 2 paralegal positions. These 9 FTEs would increase total expenditures by \$761,259 in FY 2018-19 to include salaries, employee fringe, and other operating expenses estimated at 16 percent of salaries and employer fringe. Of this total, \$271,389 would be General Fund expenditures and \$489,870 would be Federal Funds expenditures. This amount of additional expenditures represents a 7 percent increase in the \$11,700,000 that DSS spends on legal services on an annual basis. If the additional workload assumption is realized, DSS will need to request additional appropriations to fund the General Fund portion of these additional expenditures.

The Judicial Department indicates that additional hearings may be necessary to consider the increased number of petitions to adopt a child. However, the additional number is not expected to be significant and the department anticipates managing any additional hearings within current resources. Therefore, this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds of the department. If the number of additional hearings does increase significantly, the result could be a backlog of cases in family court.

**Explanation of Fiscal Impact**

**Signed by Governor on April 4, 2018**  
**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 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.

This bill allows also that 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. Under prior law and court rulings, parties do not have standing to petition for adoption once a child is in DSS custody.

The bill adds a new Section 63-9-370, in which Subsection (A) requires that consent or relinquishment for purposes of adopting a child in the custody of DSS pursuant to a removal action is valid, binding, and enforceable. If a termination of parental rights action is filed prior to the execution of a consent or relinquishment, then any further action on the adoption petition remains subject to any court ruling on the termination of parental rights action.

New Section 63-9-370(B) provides additionally that DSS may ask the court to make findings that the consent or relinquishments are freely, knowingly, and voluntarily given. Consent or relinquishments can be ruled invalid on grounds of the mental capacity of the adoptee or parent, illness, or involuntary nature of the consent or relinquishment due to undue influence, duress, or coercion.

After discussions with DSS staff, a family court judge, and other interested parties, our interpretation of this bill suggests that once DSS takes custody of a child a parent may provide a general or a directed consent for a child's adoption prior to an action to terminate parental rights is granted by family court. Once DSS files an action to terminate parental rights, a parent may consent to adoption or relinquishment, but the action will be held in abeyance until the court ruling is issued. Additionally, DSS can test the validity of consents or relinquishments by asking the court to rule on the legal suitability of their permission and the ability to provide that permission.

In summary, we anticipate that the changes prescribed in this bill will increase the number of petitions for adoption and thereby increase the legal expenses of DSS.

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 additional petitions will be filed in 25 percent of pending adoption cases resulting in an 11 percent increase in the number of attorneys necessary to meet the increased legal caseload. Presently, there are 61 FTE attorney positions at DSS. An 11 percent increase would represent 7 new attorney FTE positions requiring 2 paralegal positions for legal casework support. These 9 FTEs would increase total expenditures by \$761,259 in FY 2018-19 to include salaries, employee fringe, and other operating expenses estimated at 16 percent of salaries and employer fringe. Of this total, \$271,389 would be General Fund expenditures and \$489,870 would be Federal Funds expenditures. This amount of additional expenditures represents a 7 percent increase in the \$11,700,000 that DSS spends on legal services on an annual basis. If the additional workload assumption is realized, DSS will need to request additional appropriations to fund the General Fund portion of these additional expenditures.

A reduction in DSS legal proceedings when permanently placing a child 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 a 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 work reductions from bill.

**Judicial Department.** The department indicates that additional hearings may be necessary to consider the increased number of petitions to adopt a child as allowed by the bill. 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 is 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. As a result, the department anticipates managing any additional hearings within current resources. Therefore, this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds of the department. 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 and Revenue**

N/A



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Frank A. Rainwater, Executive Director