

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7010**

**BILL NUMBER:** HB 1446

**NOTE PREPARED:** Jan 14, 2011

**BILL AMENDED:**

**SUBJECT:** DCS Investigation of Sexual Abuse Cases.

**FIRST AUTHOR:** Rep. Cheatham

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill permits the Department of Child Services (DCS) to determine that a report of suspected child abuse or neglect is not substantiated if: (1) the incident of suspected child abuse or neglect involves acts that would constitute sexual misconduct with a minor; (2) the Romeo and Juliet defense to sexual misconduct with a minor applies; and (3) the prosecuting attorney does not charge the person with sexual misconduct with a minor. The bill specifies that an administrative hearing officer may consider Romeo and Juliet evidence in determining whether a substantiated report of child abuse or neglect should be expunged from the child protection index.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** Currently, an individual may be found not guilty of sexual misconduct with a minor (engaging in deviate sexual conduct with a minor) as a result of the Romeo and Juliet defense, in criminal cases. The Romeo and Juliet defense is currently not applicable in Department of Child Services investigations of child abuse and neglect or administrative hearings that review substantiated reports of child abuse and neglect.

This bill will apply to investigations performed by DCS after the bill's effective date. Investigations of child abuse and neglect that occurred before the bill's effective date (where the Romeo and Juliet defense may have been applicable but was not considered by DCS and resulted in the investigation being substantiated) would still be reported in the Child Protection Index. No change in the number of child abuse and neglect investigations performed in the state is expected.

However, the bill will also allow administrative hearing officers (when determining if the report should be

expunged from the Child Protection Index) to consider the fact that a report of suspected child abuse or neglect is unsubstantiated because of the Romeo and Juliet defense. As a result, this bill may increase the number of requests for administrative hearings from individuals who (1) are currently registered in the Child Protection Index, but (2) were found not guilty of sexual misconduct of a minor as a result of the Romeo and Juliet defense.

The actual number of individuals who will be affected and the number of requests for administrative hearings that will be made by affected individuals is unknown. The expected increase in the number of administrative hearings provided by the DCS is expected to be small.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** DCS.

**Local Agencies Affected:**

**Information Sources:** Brady Brookes, DCS.

**Fiscal Analyst:** Bill Brumbach, 232-9559.