



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-3780 • RFA.SC.GOV/IMPACTS

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.

Bill Number: H. 3180 Amended by House Judiciary Special Laws Subcommittee on April 15, 2021
Author: G.R. Smith
Subject: Vulnerable Adult Maltreatment Registry Act
Requestor: House Judiciary
RFA Analyst(s): Gardner, Griffith, and Miller
Impact Date: October 19, 2021 Updated for Additional Agency Response

Fiscal Impact Summary

This bill creates the “Vulnerable Adult Maltreatment Registry Act” and requires that persons who are convicted of maltreatment of vulnerable adults have their names added to the Vulnerable Adult Maltreatment Registry, allows for registry information to only be released to certain parties, creates a new offense for the unlawful release of or unlawful access to registry information, and requires investigative entities to submit to the Governor and the General Assembly an annual report on the incidence and prevalence of maltreatment of vulnerable adults in South Carolina. This bill takes effect upon approval by the Governor, subject to funding.

This bill will have no expenditure impact for the Judicial Department, Department of Health and Environmental Control (DHEC), Department of Disabilities and Special Needs (DDSN), and Department on Aging because the agencies will be able to manage any additional responsibilities with current staff and within current appropriations.

This bill will increase General Fund expenditures by \$2,386,000 and Federal Funds expenditures by \$299,000 for the Department of Social Services (DSS) in FY 2022-23 to hire 31.0 FTEs with appropriate training and equipment, and to upgrade the agency’s Child and Adult Protective Services System (CAPSS) information system to host the Vulnerable Adult Maltreatment Registry. Of this total, \$288,000 will be a non-recurring General Fund expenditure, to upgrade the CAPSS system and for initial training and equipment for the new FTEs. The remaining General Fund expenditure of \$2,089,000 and Federal Fund expenditure of \$299,000 will be a recurring expenditure.

Additionally, this bill will result in an increased General Fund expenditure of \$75,000 for the State Law Enforcement Division (SLED) to hire 1.0 FTE to manage the anticipated increased investigations workload. Of this total, there will be a recurring \$72,000 General Fund expenditure impact and a non-recurring General Fund expenditure impact of \$3,000. Therefore, the overall expenditure impact of the bill on the agency’s General Fund appropriations for FY 2022-23 would be \$75,000.

The General Fund, Other Funds, and local revenue impact of the bill is undetermined because it is dependent upon the number of future fines resulting from the release of information contained in the registry.

All expenditure and revenue impact due to the bill are at the discretion of the General Assembly and appropriated funds and any federal funding.

This impact statement has been updated to provide responses from the DHEC, SLED, DSS, and Department on Aging, to include an analysis for DDSN, and to include a local revenue analysis.

Explanation of Fiscal Impact

Updated for Additional Agency Response on October 19, 2021

Amended by House Judiciary Special Laws Subcommittee on April 15, 2021

State Expenditure

This bill creates the “Vulnerable Adult Maltreatment Registry Act,” to be established and maintained by DSS and requires that persons convicted of maltreatment of vulnerable adults have their names added to the Vulnerable Adult Maltreatment Registry. The registry must contain specific information for each perpetrator and must document the acts of maltreatment. Investigative entities will determine whether the perpetrator’s name should be placed in the registry and follow through with legal action in the family court, as necessary.

The bill also establishes guidelines for accessing and using information in the registry. It restricts access to specific individuals and agencies involved in the care of vulnerable adults, legal representation for vulnerable adults, law enforcement, and other investigative entities.

When a statute or regulation makes the determination of an applicant’s history of maltreatment of a vulnerable adult a condition for the issuance of a license, registration, or employment, the applicant must be screened against the registry before he can be approved. DHEC or the Department of Disabilities and Special Needs (DDSN) must screen all applicants regardless of whether they are volunteering or seeking employment. Employers of any entity licensed by DHEC that provide care to vulnerable adults must also screen applicants seeking to volunteer or seeking employment.

The bill also creates a new misdemeanor offense for the unlawful release of the information contained in the registry or the unlawful access of such information. These offenses are punishable by a fine of not more than \$1,500 or imprisonment for not more than one year, or both.

Additionally, agencies charged with investigating alleged maltreatment of a vulnerable adult must annually provide to the Governor and the General Assembly a report on the incidence and prevalence of vulnerable adult abuse, neglect, and exploitation in South Carolina, the effectiveness of services provided throughout the State to protect vulnerable adults from maltreatment, and any other non-identifying data considered instructive.

DSS may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used to further the maintenance and use of the registry.

Judicial Department. This bill requires DSS to maintain a Vulnerable Adult Maltreatment Registry. An investigative entity must file a petition in family court to initiate the process of placing an individual's name in the registry, if the person has been indicated as offenders but not convicted. If the individual contests the placement of their name in the registry, a family court hearing must be scheduled within sixty days. The bill provides for procedures, schedules, and hearings related to such petitions and creates the unlawful offense of disseminating information contained in the registry. The department reports that the bill will impact both family and general sessions courts and may result in an increase in caseloads. As the bill creates a new offense, there is no data available with which to estimate the number of filings, hearings, or trials that may be impacted. However, in FY 2019-20, there were 169 filings related to maltreatment of vulnerable adults, and there were 51 convictions for such offenses. The department anticipates being able to manage the increased caseload with existing General Fund resources. Therefore, this bill will have no expenditure impact for the agency.

Department of Health and Environmental Control. This bill requires employers of certain entities licensed by DHEC to screen applicants against the newly created Vulnerable Adult Maltreatment Registry. The department indicates that this bill will have no expenditure impact, since it does not alter the responsibilities of the agency. *This section of the impact statement has been updated to include a response from DHEC.*

Department of Disabilities and Special Needs. This bill requires DDSN to screen applicants against Vulnerable Adult Maltreatment Registry before hiring. RFA anticipates DDSN will be able to manage the screening of applicants against the registry within the normal course of the hiring process. Therefore, RFA anticipates this bill will have no expenditure impact for DDSN. *This section of the impact statement has been updated to include an analysis for DDSN.*

State Law Enforcement Division. SLED is responsible for investigating vulnerable adult abuse, neglect, exploitation, and fatalities. This bill requires SLED to determine, as part of their investigation, whether the report is indicated with a known perpetrator, indicated without a known perpetrator, or unfounded. SLED anticipates needing to hire an additional attorney to manage an increased workload. As such, the General Fund expenditure impact will be \$75,000 during FY 2022-23 and \$72,000 in the years beyond. However, as the implementation of this bill is subject to funding, any expenditures are at the discretion of the General Assembly and the amount appropriated. *This section of the impact statement has been updated to include a response from SLED.*

Department of Social Services. This bill creates a Vulnerable Adult Maltreatment Registry and tasks the Adult Protective Services (APS), within DSS, to manage the registry. DSS expects the creation and management of the registry will require 1.0 FTE, an IT Program Coordinator II. Also, the registry will interface with the Legal Case Management System, which will require a one-time update at an estimated non-recurring General Fund expenditure of \$288,000.

Further, information on the registry may only be released under certain circumstances and to certain persons as outlined in this bill. DSS anticipates needing an additional 6.0 FTEs, 5 Program Coordinator I's to screen requests for the release of information from the register, and 1 Program Coordinator II to supervise. Based on the number of screenings performed by employees in a similar program, DSS anticipates each new Program Coordinator I will be able to screen between 150 and 175 requests per day. This would result in screening an average of 800 requests per day.

Additionally, this bill expands the investigative responsibilities of APS, as an investigative entity, to indicate whether a perpetrator is known, unknown, the case is unfounded and to determine whether a perpetrator should be added to the registry. Currently, according to DSS regulations, APS may make a substantiated determination that abuse, neglect, or exploitation occurred but contacts law enforcement to investigate any potential perpetrator. This bill increases APS's investigatory responsibilities to include investigating any perpetrator and defending its findings in family court, as necessary. DSS stated that an additional 24.0 FTEs are needed to meet the expanded investigatory responsibilities. This includes 5 Program Coordinator I's, 1 Program Coordinator II, 10 Case Managers, 2 Case Manager Supervisor, 3 Attorneys, 2 Paralegals, and 1 Administrative Assistant.

In conclusion, DSS anticipates this bill will result in an additional 31.0 FTEs, resulting in a General Fund expenditure of approximately \$1,617,000 for salary and employer contributions for 27.09 FTEs and an additional Federal Funds expenditure of \$255,000 for salary and employer contributions for the remaining 3.91 FTEs. Additionally, DSS anticipates an increase in General Fund expenditures by \$306,000 and a Federal Funds expenditure of \$44,000 for supplies, equipment and other recurring operating expenses for the new FTEs. Also, DSS anticipates annual training for the investigative staff will result in a recurring General Fund expenditure increase of \$175,000 and an update to the Legal Case Management System resulting in a non-recurring General Fund expenditure of \$288,000. Therefore, this bill will result in an increase to General Fund expenditures of \$2,386,000 in FY 2022-23 and a General Fund expenditure of \$2,098,000 each year thereafter. However, as the implementation of this bill is subject to funding, any expenditures are at the discretion of the General Assembly and the amount appropriated and federal funding. *This section of the impact statement has been updated to include a response from DSS.*

South Carolina Department on Aging. The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, because it does not alter the oversight or regulatory activities of the agency. *This section of the impact statement has been updated to include a response from the Department of Aging.*

State Revenue

This bill creates new misdemeanor offenses for the unlawful release or access of information contained in the Vulnerable Adult Maltreatment Registry. These offenses are punishable by a fine of not more than \$1,500 or imprisonment for not more than one year, or both. As these are new offenses and there is no data available on the number of convictions that may occur, the amount of General Fund, Other Funds, and local revenue that may be generated is undetermined.

However, as the implementation of this bill is subject to funding, any revenue will be dependent upon General Assembly appropriations for the implementation of this bill.

Local Expenditure

N/A

Local Revenue

This bill creates new misdemeanor offenses for the unlawful release or access of information contained in the Vulnerable Adult Maltreatment Registry. These offenses are punishable by a fine of not more than \$1,500 or imprisonment for not more than one year, or both. As these are new offenses and there is no data available on the number of convictions that may occur, the amount of General Fund, Other Funds, and local revenue that may be generated is undetermined. However, as the implementation of this bill is subject to funding, any revenue will be dependent upon General Assembly appropriations for the implementation of this bill. *This section of the impact statement has been updated to include a local revenue analysis.*

Introduced on January 12, 2021

State Expenditure

This bill creates the “Vulnerable Adult Maltreatment Registry Act,” to be established and maintained by the Department of Social Services (DSS), and requires that persons convicted of maltreatment of vulnerable adults have their names added to the Vulnerable Adult Maltreatment Registry. Perpetrators convicted of knowing and willful abuse, neglect, or exploitation of a vulnerable adult (including those instances involving great bodily injury or death) or involved with cases arising out of a family court proceeding may have their names entered in the registry. The registry must contain specific information for each perpetrator and must document the acts of maltreatment.

The relevant official entity investigating the case will determine whether the perpetrator’s name should be placed in the registry. For persons named as offenders but not convicted, an investigative entity must file in family court a petition containing a written case summary stating facts sufficient to establish evidence of maltreatment to initiate the process of placing an individual’s name in the registry. If the individual contests the placement of their name in the registry, a family court hearing must be scheduled within sixty days.

The bill also establishes guidelines for accessing and using information in the registry. It restricts access to specific individuals and agencies involved in the care of vulnerable adults, legal representation for vulnerable adults, law enforcement, and other investigative entities.

When a statute or regulation makes the determination of an applicant’s history of maltreatment of a vulnerable adult a condition for the issuance of a license, registration, or employment, the applicant must be screened against the registry before he can be approved. The Department of Mental Health or the Department of Disabilities and Special Needs must screen all applicants regardless of whether they are volunteering or seeking employment. Employers of any entity licensed by the Department of Health and Environmental Control that provide care to vulnerable adults must also screen applicants seeking to volunteer or seeking employment.

The bill also creates a new misdemeanor offense for the unlawful release of the information contained in the registry or the unlawful access of such information. These offenses are punishable by a fine of not more than \$1,500 or imprisonment for not more than one year, or both.

Additionally, agencies charged with investigating alleged maltreatment of a vulnerable adult must annually provide to the Governor and the General Assembly a report on the incidence and prevalence of vulnerable adult abuse, neglect, and exploitation in South Carolina, the effectiveness of services provided throughout the State to protect vulnerable adults from maltreatment, and any other non-identifying data considered instructive.

DSS may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used to further the maintenance and use of the registry.

Judicial Department. This bill requires DSS to maintain a Vulnerable Adult Maltreatment Registry and provides that the names of persons convicted of maltreatment of vulnerable adults be placed in the registry. For persons named as offenders but not convicted, an investigative entity must file in family court a petition containing a written case summary stating facts sufficient to establish evidence of maltreatment. The bill provides for procedures, schedules, and hearings related to such petitions and creates the unlawful offense of disseminating information contained in the registry. The department reports that the bill will impact both family and general sessions courts and may result in an increase in caseloads. As the bill creates a new offense, there is no data available with which to estimate the number of filings, hearings, or trials that may be impacted. However, in FY 2019-20, there were 169 filings related to maltreatment of vulnerable adults, and there were 51 convictions for such offenses. The department intends to use existing General Fund resources to manage any increase in costs associated with the implementation of the bill.

Department of Health and Environmental Control. A determination of the bill's impact is pending, as the department is still reviewing the bill.

State Law Enforcement Division. A determination of the bill's impact is pending, as the agency is still reviewing the bill.

Department of Social Services. A determination of the bill's impact is pending, as the department is still reviewing the bill.

State Revenue

This bill creates new misdemeanor offenses for the unlawful release or access of information contained in the Vulnerable Adult Maltreatment Registry. These offenses are punishable by a fine of not more than \$1,500 or imprisonment for not more than one year, or both. As these are new offenses and there is no data available on the number of convictions that may occur, the amount of revenue that may be generated is undetermined.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director