



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.

Bill Number: H. 4185 Introduced on April 8, 2021
Author: Thayer
Subject: Communication and Visitation with Protected Persons
Requestor: House Judiciary
RFA Analyst(s): Gardner
Impact Date: March 9, 2022

Fiscal Impact Summary

This bill establishes new requirements for the protection of persons under disability and their property and limits the ability of a guardian or conservator to isolate a protected person.

Judicial anticipates this bill will have no expenditure impact as it can manage any additional responsibilities within existing appropriations. Judicial may need to provide support and training to probate courts and legal community, guardian and conservatorship form updates, and other such activities.

The Revenue and Fiscal Affairs Office (RFA) anticipates this bill will have an undetermined local expenditure impact due to the increased caseload in probate courts. This bill requires probate courts to hear petitions related to instances where a protected person's rights against isolation may be violated. There is no data to determine the potential increase in the number of cases heard in probate courts.

RFA anticipates the bill may result in an undetermined impact on General Fund revenue, Other Funds revenue, and local revenue due to modification in fee collections in probate courts.

Explanation of Fiscal Impact

Introduced on April 8, 2021

State Expenditure

This bill relates to the protection of persons under disability and their property and limits the ability of a guardian or conservator to isolate a protected person. The bill prevents a guardian or conservator from restricting a protected person's right of communication, visitation, or interaction with other persons. The consent of a protected person may be presumed based on his prior relationship history with any visitor or other person. The bill also enables a guardian or conservator to petition the court to request that restrictions be placed on another person's ability to interact with a protected person if good cause exists. The court may also opt to restrict the interactions of a person with a protected person under certain circumstances. In the case that an interested person (which may include the protected person) reasonably believes his rights have been violated, he may petition the court to take certain actions. A guardian or conservator who is found to be knowingly isolating a protected person may be subject to removal or replacement.

The bill also provides that the court must hear motions concerning protected persons within sixty days after the date the motion is filed. Should such motion indicate that the protected person's health is in significant decline or the person's death is imminent, the court must hold an emergency hearing no later than ten days after the motion is filed. The court is authorized to award the prevailing party court costs and reasonable attorney's fees for cases brought pursuant to the bill's provisions. However, the costs may not be paid out of the protected person's estate. Guardians or conservators having knowledge of adverse circumstances involving a protected person must notify a protected person's closest relatives or other designated person(s) under certain circumstances. The bill also establishes the circumstances under which a guardian or conservator is not required to provide notice to the protected person's closest relative(s) or other designated persons.

Judicial may need to provide support and training to probate courts and legal community, guardian and conservatorship form updates, and other such activities. Judicial will use existing General Funds to manage any additional costs resulting from this bill. Therefore, there is no expenditure impact on Judicial.

State Revenue

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund revenue, Other Funds revenue, and local revenue due to the modifications in fines and fees collections in court.

Local Expenditure

This bill requires probate courts to hear petitions related to instances where a protected person's rights against isolation may been violated. There is no data to determine the potential increase in the number of cases heard in probate courts. RFA anticipates this bill will have an undetermined local expenditure impact due to the increased caseload in probate courts.

Local Revenue

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to local revenue due to the modifications in fines and fees collections in court.



Frank A. Rainwater, Executive Director