



**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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<b>Bill Number:</b>	H. 5019	Introduced on February 23, 2022
<b>Author:</b>	Howard	
<b>Subject:</b>	Essential Caregivers Program	
<b>Requestor:</b>	House Medical, Military, Public, and Municipal Affairs	
<b>RFA Analyst(s):</b>	Griffith and Boggs	
<b>Impact Date:</b>	March 14, 2022	

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### **Fiscal Impact Summary**

This bill, the Essential Caregivers Act of 2022, gives residents of certain health care facilities the right to designate two essential caregivers, who shall be granted access to the resident even during a public health emergency. The bill will have no expenditure impact on the Department of Alcohol and Other Drug Abuse Services (DAODAS), the Department of Disabilities and Special Needs (DDSN), the Department of Health and Environmental Control (DHEC), the Department of Health and Human Services (DHHS), the Department of Mental Health (DMH), or the Vocational Rehabilitation Department because any potential expenses can be managed within the agencies' existing appropriations. Also, the Revenue and Fiscal Affairs Office (RFA) does not expect an expenditure impact on local health care facilities since we anticipate that the facilities can manage the additional duties within the course of normal business.

The bill allows DHEC to impose a civil money penalty if a facility is found to be in violation of caregiver access rights and fails to implement a corrective action plan within seven days of receiving notice from the agency. Since the bill does not specify the amount of the civil penalty and the number of facilities who will be found to be in violation and will also fail to implement their corrective action plan is unknown, the amount of revenue that will be directed to the General Fund is undetermined.

### **Explanation of Fiscal Impact**

#### **Introduced on February 23, 2022**

#### **State Expenditure**

This bill, the Essential Caregivers Act of 2022, gives a resident of a nursing home, inpatient rehabilitation facility, intermediate care facility for persons with intellectual disability, or community residential care facility the right to designate two essential caregivers during a public health emergency. Each essential health caregiver is granted access to the resident of the facility for a specified number of hours every day. The health care facilities listed in the bill are regulated by various state agencies, which may include DAODAS, DDSN, DHEC, DHHS, DMH, and the Vocational Rehabilitation Department. These departments indicate that any potential expenses as a result of this portion of the bill can be managed within existing appropriations. Therefore, this portion of the bill will have no expenditure impact on DAODAS, DDSN, DHEC, DMH, or the Vocational Rehabilitation Department.

Additionally, within fifteen days of the declaration of a public health emergency, DHEC shall establish and maintain a process to receive appeals from residents and caregivers challenging a decision to deny access and investigate all appeals within forty-eight hours of receipt. Within seven business days of commencing an investigation, the agency shall determine whether a facility violated access rights. If there has been a violation, DHEC shall require the facility to establish a corrective action plan and may impose a civil money penalty if the plan is not implemented. The agency indicates that the duties enumerated in the bill can be managed within its existing appropriations. Therefore, this portion of the bill will have no expenditure impact on DHEC.

### **State Revenue**

The bill allows DHEC to impose a civil money penalty if a facility is found to be in violation of caregiver access rights and fails to implement a corrective action plan within seven days of receiving notice from the agency. DHEC indicates that revenue from civil penalties are allocated to the General Fund if no other fund is specified in the bill. Since the bill does not specify the amount of the civil penalty, and the number of facilities who may violate the provisions of the bill and will also fail to implement their correction action plan is unknown, the amount of revenue that will be directed to the General Fund is undetermined.

### **Local Expenditure**

RFA contacted twenty-three county governments regarding the fiscal impact of this bill. No counties responded to our request for information. While each local health care facility must develop its essential caregivers program, we expect that the facilities can manage this responsibility in the course of normal business. Therefore, we do not anticipate that this bill will have an expenditure impact on local health care facilities. We will update this fiscal impact statement if county governments provide a different response.

### **Local Revenue**

N/A



Frank A. Rainwater, Executive Director