



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: S. 0287 Signed by Governor on March 15, 2021
Author: Gambrell
Subject: Fingerprint Criminal Records Checks
Requestor: Senate
RFA Analyst(s): Coomer and Gardner
Impact Date: July 7, 2021

Fiscal Impact Summary

This bill adds both a state and national criminal records check to the list of requirements that the Department of Labor, Licensing and Regulation (LLR) can enforce for the licensure of physical therapists and physical therapy assistants. This bill will increase Other Funds expenditures of LLR by \$59,292 in FY 2021-22 and by \$58,292 each year thereafter for the addition of 1.0 FTE to assist with the full implementation of the Physical Therapy Licensure Compact. This bill is not expected to have an expenditure impact on the State Law Enforcement Division (SLED), as we anticipate that the duties required under the bill can be managed within the normal course of agency business.

This bill will increase General Fund revenue by \$5,929 in FY 2021-22 and by \$5,829 for each year thereafter because LLR is required to remit an amount equal to 10 percent of board expenditures to the General Fund. Further, this bill may increase General Fund revenue by approximately \$12,500 in FY 2021-22 and each year thereafter due to fees collected by SLED for state criminal records checks.

Explanation of Fiscal Impact

Signed by Governor on March 15, 2021

State Expenditure

This bill allows LLR to require physical therapists and physical therapy assistants to complete a state criminal records check, conducted by SLED, and a national criminal records check, conducted by the Federal Bureau of Investigation, along with other requirements, prior to determining an applicant's eligibility for initial licensure. The cost of the criminal background checks is at the expense of the applicant.

Department of Labor, Licensing and Regulation. LLR indicates that the language contained in this bill allows the Board of Physical Therapy Examiners (board) to fully implement the Physical Therapy Licensure Compact (compact) as intended by Act 226 of 2018, which allowed for South Carolina to enter into the compact. LLR anticipated at that time that a new FTE would be required to assist with the administration of the compact, but this FTE was unable to be hired until the compact could be implemented. LLR indicates that the agency will now require this new FTE to assist with the administration of the compact and process criminal background checks. The salary and fringe benefits for 1.0 Administrative Assistant are expected to total

\$56,292. Recurring operational expenditures are expected to total \$2,000, and non-recurring operational expenditures are expected to total \$1,000. Therefore, this bill will increase Other Funds expenditures of LLR by \$59,292 in FY 2021-22 and by \$58,292 each year thereafter.

State Law Enforcement Division. RFA anticipates that this bill will require SLED to perform activities that can be conducted in the normal course of agency business. Therefore, this bill is not expected to have an expenditure impact on SLED due to the provision requiring a state criminal history records check and fingerprinting for applicants to the board.

State Revenue

This bill allows LLR to require physical therapists and physical therapy assistants to complete a state criminal records check, conducted by SLED, and a national criminal records check, conducted by the Federal Bureau of Investigation, along with other requirements, prior to determining an applicant's eligibility for initial licensure.

Department of Labor, Licensing and Regulation. Pursuant to Section 40-1-50, fees for revenue-funded boards may be adjusted biennially to ensure that they are sufficient but not excessive to cover expenses for the operation of each respective board. In accordance with the SC Administrative Procedures Act, LLR may propose to amend fee schedules for boards and commissions whose fees appear in Chapter 10 of the South Carolina Code of Regulation through the regulation promulgation process, subject to the review and approval of the General Assembly. Therefore, the expenditures associated with this bill may be offset in the future by subsequent fee adjustments made to cover any shortfalls in revenue collections associated with this bill.

Additionally, Proviso 81.3 of the FY 2021-22 Appropriations Act requires LLR to remit 10 percent of expenditures of the Professional and Occupational Licensing (POL) Offices to the General Fund. This bill will increase General Fund revenue by \$5,929 in FY 2021-22 and by \$5,829 for each year thereafter due to expenditures for additional personnel.

State Law Enforcement Division. This bill may increase the number of state criminal records checks that SLED is required to perform. The total cost for a criminal records check is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the Federal Bureau of Investigation. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED.

LLR indicates there have been an average of about 500 initial licenses granted for physical therapists and physical therapy assistants between FY 2016-17 and FY 2019-20. If state background checks are performed on an average of 500 individuals a year, revenue would increase by approximately \$12,500 each fiscal year. In FY 2018-19, SLED generated approximately \$1,300,000 in total from state criminal records checks. As a note, RFA is not using FY 2019-20 data due to the impact of the COVID-19 pandemic on state background checks processing. RFA does not anticipate that the total increase in revenue due to state

background checks will be more than the \$4,461,000 cap on revenue deposited to the General Fund. Based upon this, the increase in revenue of \$12,500 will be allocated to the General Fund in FY 2021-22 and each year thereafter, and there is no increase in Other Funds of SLED.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director