**South Carolina General Assembly**

123rd Session, 2019-2020

**S. 197**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Shealy, Climer and Turner

Document Path: l:\s-res\ks\003adul.kmm.ks.docx

Introduced in the Senate on January 8, 2019

Currently residing in the Senate Committee on **Family and Veterans' Services**

Summary: Department of Aging and Vulnerable Adult Services

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/12/2018 Senate Prefiled

12/12/2018 Senate Referred to Committee on General

1/8/2019 Senate Introduced and read first time ([Senate Journal‑page 131](file:///h:\sj\20190108.docx))

1/8/2019 Senate Referred to Committee on Family and Veterans' Services ([Senate Journal‑page 131](file:///h:\sj\20190108.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=197&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[12/12/2018](file:///p:\pprever\2019-20\197_20181212.docx)

**A** **BILL**

TO AMEND SECTION 43-21-10, SECTION 43-21-45, SECTION 43-21-60, 43-21-70, SECTION 43-21-100, SECTION 43-21-120, SECTION 43-21-150, SECTION 43-21-160, SECTION 1-11-720(A)(9), SECTION 1-30-10(A)(23), SECTION 9-1-10(11)(g), SECTION 9-1-10(14), SECTION 29-4-60(D), SECTION 43-35-10(5), SECTION 43-35-15(C), SECTION 43-35-55(D), (E) AND (F), SECTION 43-35-220(B)(1), SECTION 43-35-260, SECTION 43-35-530, SECTION 43-35-560(A)(1), SECTION 44-36-20(21), SECTION 44-36-50, AND SECTION 44-36-310 OF THE 1976 CODE AND SECTION 19 OF ACT 261 OF 2018, ALL RELATING TO THE DEPARTMENT ON AGING, THE DEPARTMENT OF SOCIAL SERVICES’ ADULT PROTECTIVE SERVICES PROGRAM, THE OFFICE OF THE GOVERNOR’S DIVISION ON AGING, OR THE OFFICE OF THE LIEUTENANT GOVERNOR’S DIVISION ON AGING, TO ESTABLISH THE DEPARTMENT OF AGING AND VULNERABLE ADULT SERVICES, TO PROVIDE THAT THE DEPARTMENT SHALL ADMINISTER CERTAIN PROGRAMS, AND TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 43-21-10 of the 1976 Code is amended to read:

“Section 43-21-10. There is created the Department ~~on~~ of Aging and Vulnerable Adult Services. The department must be supported by an Advisory Council on Aging consisting of one member from each of the ten planning and service areas and five members from the State at large. The director of the department shall provide statewide notice that nominations may be submitted to the director from which the Governor shall appoint the members of the council. The members must be citizens of the State who have an interest in and a knowledge of the problems of an aging population. In making appointments to the council, consideration must be given to assure that the council is composed of appointees who are diverse in age, who are able and disabled, and who are active leaders in organizations and institutions that represent different concerns of older citizens and their families. The chair must be elected by the members of the advisory council from its members for a term of two years and until a successor is elected. Members of the council shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees. The advisory council shall meet at least once each quarter and special meetings may be called at the discretion of the director of the department. Rules and procedures must be adopted by the council for the governance of its operations and activities.”

SECTION 2. Section 43-21-45 of the 1976 Code is amended to read:

“Section 43-21-45. The Department ~~on~~ of Aging and Vulnerable Adult Services shall designate area agencies on aging, and area agencies on aging shall designate focal points. Focal points shall provide leadership on aging issues in their respective communities and shall carry out a comprehensive service system for older adults or shall coordinate with a comprehensive service system in providing services for older adults. The area agencies on aging represent the regional level of the state aging network and the focal points represent the local level of the state aging network.”

SECTION 3. Section 43-21-60 of the 1976 Code is amended to read:

“Section 43-21-60. The Department ~~on~~ of Aging and Vulnerable Adult Services shall submit an annual report to the Governor and to the General Assembly on or before January first of each year. The report shall deal with the present and future needs of the elderly and with the work of the department during the year.”

SECTION 4. Section 43-21-70 of the 1976 Code is amended to read:

“Section 43-21-70. The Governor shall appoint with the advice and consent of the Senate a director to be the administrative officer of the Department ~~on~~ of Aging and Vulnerable Adult Services who shall serve at the Governor’s pleasure and who is subject to removal pursuant to the provisions of Section 1‑3‑240.”

SECTION 5. Section 43-21-100 of the 1976 Code is amended to read:

“Section 43-21-100. The Department ~~on~~ of Aging and Vulnerable Adult Services shall prepare the budget for its operation which must be submitted to the Governor and to the General Assembly for approval.”

SECTION 6. Section 43-21-120 of the 1976 Code is amended to read:

“Section 43-21-120. (A) There is created the Coordinating Council to the Department ~~on~~ of Aging and Vulnerable Adult Services to work with the department on the coordination of programs related to the field of aging, and to advise and make pertinent recommendations, composed of the following: the Director of the Department of Health and Environmental Control, the State Director of Social Services, the Director of the Department of Mental Health, the Superintendent of Education, the Director of the State Department of Labor, Licensing and Regulation, the Executive Director of the South Carolina State Department of Employment and Workforce, the Secretary of Commerce, the Commissioner of the State Department of Vocational Rehabilitation, the Director of the Clemson University Extension Service, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Director of the South Carolina Retirement System, the Executive Director of the South Carolina Municipal Association, the Executive Director of the State Office of Economic Opportunity, the Executive Director of the South Carolina Association of Counties, the Commissioner of the Commission for the Blind, the Director of the Department of Health and Human Services, the Director of the Department of Alcohol and Other Drug Abuse Services, and the Chairperson of the Commission on Women.

(B) The council shall meet at least once each six months and special meetings may be called at the discretion of the chairman or upon request of a majority of the members.

(C) The chairman of the advisory commission and the director of the Department ~~on~~ of Aging and Vulnerable Adult Services, who shall serve as secretary to the council, shall attend the meetings of the council.

(D) The director of each agency or department making up the council shall serve as chairman of the council for a term of one year. The office of chairman is held in the order in which the membership of the council is listed in this section.”

SECTION 7. Section 43-21-150 of the 1976 Code is amended to read:

“Section 43-21-150. (A) The Department ~~on~~ of Aging and Vulnerable Adult Services, with the cooperation of the Long Term Care Council and the Department of Insurance, shall develop and implement a program to educate citizens concerning:

~~(a)~~(1) the availability of long term care services;

~~(b)~~(2) the lifetime risk of spending some time in a nursing home;

~~(c)~~(3) the coverage available for long term care services through Medicare, Medicaid, and private insurance policies, and the limitations of this coverage; and

~~(d)~~(4) the availability of home equity conversion alternatives, such as reverse annuity mortgages and sale‑leaseback arrangements, in this State and the risks and benefits of these alternatives.

(B) This program must be made a part of the Preretirement Education Program of the South Carolina Retirement Systems.”

SECTION 8. Section 43-21-160 of the 1976 Code is amended to read:

“Section 43-21-160. (A) There is created the Eldercare Trust Fund of South Carolina to be administered by the South Carolina Department ~~on~~ of Aging and Vulnerable Adult Services.

(B) All monies received from the voluntary contribution system established in Section 12‑7‑2419 or any other contribution, gift, or bequest must be placed on deposit with the State Treasurer in an interest‑bearing account.

(C) These funds must be used to award grants to public and private nonprofit agencies and organizations to establish and administer innovative programs and services that assist older persons to remain in their homes and communities with maximum independence and dignity.

(D) The Eldercare Trust Fund shall supplement and augment programs and services provided by or through state agencies but may not take the place of these programs and services.

(E) The South Carolina Department ~~on~~ of Aging and Vulnerable Adult Services shall carry out all activities necessary to administer the fund.”

SECTION 9. Section 1-11-720(A)(9) of the 1976 Code is amended to read:

“(9) local councils on aging or other governmental agencies providing aging services funded by the Department ~~on~~ of Aging and Vulnerable Adult Services;”

SECTION 10. Section 1-30-10(A)(23) of the 1976 Code is amended to read:

“23. Department ~~on~~ of Aging and Vulnerable Adult Services.”

SECTION 11. Section 9-1-10(11)(g) of the 1976 Code is amended to read:

“(g) an employee of a local council on aging or other governmental agency providing aging services funded by the Department ~~on~~ of Aging and Vulnerable Adult Services.”

SECTION 12. Section 9-1-10(14) of the 1976 Code is amended to read:

“(14) ‘Employer’ means this State, a county board of education, a district board of trustees, the board of trustees or other managing board of a state‑supported college or educational institution, or any other agency of this State by which a teacher or employee is paid; the term ‘employer’ also includes a county, municipality, or other political subdivision of the State, or an agency or department of any of these, which has been admitted to the system under the provisions of Section 9‑1‑470, a service organization referred to in item (11)(e) of this section, an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61‑12‑20, and a local council on aging or other governmental agency providing aging services funded by the Department ~~on~~ of Aging and Vulnerable Adult Services.”

SECTION 13. Section 29-4-60(D) of the 1976 Code is amended to read:

“(D) The Department ~~on~~ of Aging and Vulnerable Adult Services shall provide independent consumer information on reverse mortgages and their alternatives.”

SECTION 14. Section 43-35-10(5) of the 1976 Code is amended to read:

“(5) ‘Investigative entity’ means the Long Term Care Ombudsman Program, the Adult Protective Services Program in the Department of ~~Social Services~~ Aging and Vulnerable Adult Services, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, or the Medicaid Fraud Control Unit of the Office of the Attorney General.”

SECTION 15. Section 43-35-15(C) of the 1976 Code is amended to read:

“(C) The Adult Protective Services Program in the Department of ~~Social Services~~ Aging and Vulnerable Adult Services shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in all settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation pursuant to this section. The Adult Protective Services Program may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used in reporting these incidents, in furthering its investigations, and in providing protective services. The Adult Protective Services Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.”

SECTION 16. Section 43-35-55(D), (E) and (F) of the 1976 Code is amended to read:

“(D) When a law enforcement officer takes protective custody of a vulnerable adult under this section, the law enforcement officer must immediately notify the Adult Protective Services Program and the Department of ~~Social Services~~ Aging and Vulnerable Adult Services in the county where the vulnerable adult was situated at the time of being taken into protective custody. This notification must be made in writing or orally by telephone or otherwise and must include the following information:

(1) the name of the vulnerable adult, if known, or a physical description of the adult, if the name is unknown;

(2) the address of the place from which the vulnerable adult was removed by the officer;

(3) the name and the address, if known, of any person who was exercising temporary or permanent custody of or control over or who was the caregiver of the vulnerable adult at the time the adult was taken into protective custody;

(4) the address of the place to which the vulnerable adult was transported by the officer;

(5) a description of the facts and circumstances resulting in the officer taking the vulnerable adult into protective custody.

(E) The Department of ~~Social Services~~ Aging and Vulnerable Adult Services is responsible for filing a petition for protective custody within one business day of receiving the notification required by subsection (D).

(F) The family court shall hold a hearing to determine whether there is probable cause for the protective custody within seventy‑two hours of the Department of ~~Social Services~~ Aging and Vulnerable Adult Services filing the petition, excluding Saturdays, Sundays, and legal holidays.”

SECTION 17. Section 43-35-220(B)(1) of the 1976 Code is amended to read:

“(1) obtaining and reviewing relevant documents including, but not limited to, the vulnerable adult’s medical records; records from the place of residence if the vulnerable adult is living in a facility or other institution; records related to assets and debts of the vulnerable adult in cases of alleged exploitation; and records from the Department of ~~Social Services~~ Aging and Vulnerable Adult Services, Department of Mental Health, Department of Disabilities and Special Needs, or other public entities providing services to the vulnerable adult;”

SECTION 18. Section 43-35-260 of the 1976 Code is amended to read:

“Section 43-35-260. The Department of ~~Social Services~~ Aging and Vulnerable Adult Services shall make available to the guardian ad litem all reports made and information collected relating to the vulnerable adult. Appropriate medical and dental care providers shall provide a guardian ad litem access to information upon request of the guardian ad litem and upon proof of appointment as the guardian ad litem for the vulnerable adult. Records must be made available to the guardian ad litem by any agency or any individual providing services to the vulnerable adult and financial records of the vulnerable adult including, but not limited to, state and federal tax records, banking and other financial institution records, and public benefits records.”

SECTION 19. Section 43-35-530 of the 1976 Code is amended to read:

“Section 43-35-530. Upon receipt of a report of a vulnerable adult death, as required by Section 17‑5‑555 or Section 43‑35‑35, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall:

(1) investigate and gather all information on the vulnerable adult fatality pursuant to Section 43‑35‑520. The coroner or medical examiner immediately must request an autopsy if the unit determines that an autopsy is necessary. The autopsy must be performed by a pathologist with forensic training as soon as possible. The forensic pathologist must inform the unit of the findings within forty‑eight hours of completion of the autopsy. If the autopsy reveals the cause of death to be pathological or an unavoidable accident, the case must be closed by the unit. If the autopsy reveals physical or sexual trauma, suspicious markings, or other findings that are questionable or yields no conclusion to the cause of death, the unit immediately must begin an investigation;

(2) request assistance of any other local, county, or state agency to aid in the investigation;

(3) upon receipt of additional investigative information, reopen a case for another coroner’s inquest;

(4) upon receipt of the notification required by item (1), review agency records for information regarding the deceased vulnerable adult or family. Information available to the department pursuant to Section 43‑35‑570 and information that is public under Chapter 4, Title 30, the Freedom of Information Act, must be available as needed to the county coroner or medical examiner, the Long Term Care Ombudsman Program, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, and the Adult Protective Services Program of the Department of ~~Social Services~~ Aging and Vulnerable Adult Services;

(5) report the activities and findings related to vulnerable adult deaths to the Vulnerable Adults Fatalities Review Committee; and

(6) develop a protocol for vulnerable adult death investigations.”

SECTION 20. Section 43-35-560(A)(1) of the 1976 Code is amended to read:

“(1) the Director of the South Carolina Department of ~~Social Services~~ Aging and Vulnerable Adult Services;”

SECTION 21. Section 44-36-20(21) of the 1976 Code is amended to read:

“(21) Alzheimer’s Disease and Related Disorders Resource Coordination Center~~, Office of the Governor, Division on Aging~~ of the Department of Aging and Vulnerable Adult Services;”

SECTION 22. Section 44-36-50 of the 1976 Code is amended to read:

“Section 44-36-50. The registry shall submit an annual report to the ~~Office of the Governor, Division on Aging,~~ Alzheimer’s Disease and Related Disorders Resource Coordination Center of the Department of Aging and Vulnerable Adult Services, the Department of Health and Environmental Control, and the Revenue and Fiscal Affairs Office.”

SECTION 23. Section 44-36-310 of the 1976 Code is amended to read:

“Section 44-36-310. In the Department of Aging and Vulnerable Adult Services, there ~~There~~ is created ~~in the Office of the Lieutenant Governor, Division on Aging,~~ the Alzheimer’s Disease and Related Disorders Resource Coordination Center to provide statewide coordination, service system development, information and referral, and caregiver support services to individuals with Alzheimer’s disease and related disorders, their families, and caregivers.”

SECTION 24. SECTION 19 of Act 261 of 2018 is amended to read:

“SECTION 19. On or before January 1, 2019, the Joint Legislative Committee on Aging shall prepare and deliver a report to the President of the Senate and the Speaker of the House of Representatives recommending any additional changes to the Department ~~on Aging~~ of Aging and Vulnerable Adult Services created by this act to enhance efficient and cost effective delivery of services to the aging community in accordance with the federal Older Americans Act.”

SECTION 25. The Code Commissioner is directed to change or correct all references to the “Department of Social Services” with regard to its Adult Protective Services Program; “the Office of the Governor, Division on Aging”; and the “Office of the Lieutenant Governor, Division on Aging” or the like in the 1976 Code or other provisions of law that are not otherwise contained in this act to “the Department of Aging and Vulnerable Adult Services,” in order to reflect that these programs’ authority is devolved upon the Department of Aging and Vulnerable Adult Services. References to the Department of Social Services with regard to its Adult Protective Services Program; the Office of the Governor, Division on Aging; and the Office of the Lieutenant Governor, Division on Aging are considered to be and must be construed to mean the Department of Aging and Vulnerable Adult Services.

SECTION 26. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑