



**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>	S. 0341	Amended by the Senate on February 28, 2023
<b>Author:</b>	Shealy	
<b>Subject:</b>	Probate Courts	
<b>Requestor:</b>	House Judiciary	
<b>RFA Analyst(s):</b>	Wren	
<b>Impact Date:</b>	April 4, 2023	

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### **Fiscal Impact Summary**

This amended bill amends the definition of guardianship proceeding in the South Carolina Probate Code, §62-5-101(11), by adding that it is a formal proceeding to determine if a minor, within 180 days of turning eighteen, is an incapacitated individual. This bill also allows a person to initiate a guardianship proceeding by filing a summons and petition for guardianship of a minor up to 180 days prior to the date the child reaches the age of eighteen. The bill further specifies that the probate court system does not have jurisdiction over the care, custody, and control of a minor as it relates to this bill, other than for the appointment of a guardian through a guardianship proceeding.

This amended bill will have no expenditure impact for Judicial. While the bill may increase the number of cases, or the duration of cases heard in court, Judicial intends to use existing General Fund resources to manage any modification in caseloads.

This amended bill may result in an increase in the fines and fees collected in probate court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in an undetermined impact to General Fund revenue, Other Funds revenue, and local revenue due to the increase in fines and fees collections in court.

### **Explanation of Fiscal Impact**

#### **Amended by the Senate on February 28, 2023**

#### **State Expenditure**

This amended bill amends the definition of guardianship proceeding in the South Carolina Probate Code, §62-5-101(11), by adding that it is a formal proceeding to determine if a minor, within 180 days of turning eighteen, is an incapacitated individual or to determine if an order for appointment of a guardian has been sought or issued for the minor. The bill also allows a person to initiate a guardianship proceeding by filing a summons and petition for guardianship of a minor up to 180 days prior to the date the child reaches the age of eighteen if the petitioner anticipates that the minor child will require a guardian upon turning eighteen. An order appointing a guardian must be issued upon the minor's eighteenth birthday or as soon thereafter as possible. Further, the bill amends §62-5-201 to specify that the probate court system does not

have jurisdiction over the care, custody, and control of a minor as it relates to this bill, other than for the appointment of a guardian through a guardianship proceeding.

Judicial indicates that this amended bill may increase the number of cases, or the duration of cases heard in court. However, Judicial intends to use existing General Fund resources to manage any modification in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

### **State Revenue**

This amended bill may result in an increase in the fines and fees collected in probate 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 and Other Funds revenue due to the increase in fines and fees collections in court.

### **Local Expenditure**

N/A

### **Local Revenue**

This amended bill may result in an increase in the fines and fees collected in probate 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 local revenue due to the increase in fines and fees collections in court.

### **Introduced on January 10, 2023**

#### **State Expenditure**

This bill amends the definition of guardianship proceeding in §62-5-101(11) by adding that it is a formal proceeding to determine if a minor, within 180 days of turning eighteen, is an incapacitated individual or to determine if an order for appointment of a guardian has been sought or issued for the minor. The bill also allows a person to initiate a guardianship proceeding by filing a summons and petition for guardianship of a minor up to 180 days prior to the date the child reaches the age of eighteen if the petitioner anticipates that the minor child will require a guardian upon turning eighteen. An order appointing a guardian must be issued upon the minor's eighteenth birthday or as soon thereafter as possible. Further, the bill amends §62-5-201 to specify that the probate court system does not have jurisdiction over the care, custody, and control of a minor as it relates to this bill, other than for the appointment of a guardian through a guardianship proceeding.

Judicial indicates that this bill may increase the number of cases, or the duration of cases heard in court. However, Judicial intends to use existing General Fund resources to manage any modification in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

### **State Revenue**

This bill may result in an increase in the fines and fees collected in probate 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 and Other Funds revenue due to the increase in fines and fees collections in court.

**Local Expenditure**

N/A

**Local Revenue**

This bill may result in an increase in the fines and fees collected in probate 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 local revenue due to the increase in fines and fees collections in court.



Frank A. Rainwater, Executive Director