



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. 0874	Introduced on January 9, 2024
Author:	McLeod	
Subject:	South Carolina Pro Birth Accountability Act	
Requestor:	Senate Medical Affairs	
RFA Analyst(s):	Boggs	
Impact Date:	March 13, 2024	

Fiscal Impact Summary

This bill enacts the South Carolina Pro Birth Accountability Act, which stipulates that a pregnant woman who would be allowed to terminate the pregnancy, but for a law prohibiting abortion upon detection of a fetal heartbeat, is entitled to compensation by the State for that child. Compensation includes reasonable expenses related to the prenatal, intrapartal, and postpartal periods of pregnancy; child related federal or state income tax credits or deductions upon detection of a heartbeat; automatic eligibility for the Nurse-Family Partnership program; public assistance; including, but not limited to, Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) benefits, which may not be reduced or suspended before the child reaches eighteen years of age, and for the Special Supplemental Food Program for Pregnant and Breastfeeding Women, Infants, and Children (WIC) among other items.

Based on information from various sources, the average cost of compensation for a qualifying mother and child will total at least \$860,000 over an eighteen-year period. Please note, SNAP and TANF are federally funded public assistance programs, and eligibility for these benefits is prescribed under federal law and regulation. For purposes of this analysis, we anticipate the State will cover funding and services provided by these federal programs for persons not federally eligible. This analysis does not include any additional administrative costs for these programs.

This bill also requires the State to pay for funeral costs if either the mother or child dies. The average cost for an adult funeral and burial expenses is approximately \$8,023 as determined by the National Funeral Directors Association (NFDA). There is limited data on fetal funerals and burial costs. Therefore, this amount could differ. Additionally, if the child is born with a congenital abnormality or disability, the State is to cover any medical expenses associated with the care of that abnormality or disability including, but not limited to, costs of hospitalization, therapeutic and ADA-compliant equipment and accommodations, and long-term care and treatment for the life of the child. Further, the State is to cover any medical expenses associated with the woman's disability if a woman becomes disabled as the result of carrying a fetus to term. The cost of such coverage can vary greatly dependent upon the severity of the disability. For reference, DSS estimates the lifetime costs of a quadriplegic are \$4,700,000 if the injury occurs at age 25.

Additionally, this bill requires DSS to have a case manager assigned to each woman who completes an affidavit as required by this bill. This case manager must meet with her in person monthly up until the time of birth and a reasonable number of visits after birth. Overall, this bill will increase expenses for DSS by \$17,553,000 in FY 2024-25 and \$17,054,000 each year thereafter. DSS anticipates the need for 152.0 FTE Case Managers, 31.0 FTE Team Leaders, 5.0 FTE Team Coordinators, and 16.0 FTE Case Manager Assistants. These 204.0 FTEs would result in recurring salaries of \$10,490,675 and fringe of \$4,825,711. DSS also anticipates an increase of \$1,637,508 in recurring operating expenses and an increase of \$498,780 in nonrecurring operating expenses. DSS based its estimates on the assumption that approximately 1,819 affidavits would be submitted annually, which represents 25 percent of the total number of abortions that were performed in the state in 2022. DSS also anticipates an increase in legal expenses in association with the agency potentially being sued for denial of benefits under this bill. While DSS is unsure of the number of claims that may be brought, the agency anticipates the need of an additional \$100,000 annually for increased insurance premiums. The agency will request General Fund appropriations for these expenses.

This bill creates a new civil action under the SC Tort Claims Act, which could result in an undetermined increase in the number of civil actions filed in court. The State Fiscal Accountability Authority (SFAA) anticipates that this bill will not create any additional administrative expenses. However, due to the possible increased number of claims, this bill could result in an undetermined amount of additional costs to the Insurance Reserve Fund (IRF). The IRF is funded through premium revenues and does not receive any appropriations from the General Fund.

This bill will also result in an increase in Other Funds revenue for the IRF due to the increased premiums charged to state agencies to offset the increased expenses associated with the newly created civil action under the SC Tort Claims Act.

The bill specifies that a woman upon detection of a fetal heartbeat is eligible to claim the fetus as a child for the purposes of any child-related federal or state income tax credits or deductions. The woman would be allowed to claim state tax credits and deductions up to one year earlier as a result. Taxpayers must incur child or dependent care expenses that are necessary for gainful employment pursuant to Internal Revenue Code Section 21 to qualify for the child and dependent care tax credit. Therefore, this provision would not be expected to impact these credits. Additionally, the state earned income tax credit is based on the amount claimed for federal tax purposes. Depending on how this is interpreted, if taxpayers are allowed to recalculate the federal credit for state tax purposes, the earned income tax credit would reduce income taxes by approximately \$153 per taxpayer based on the average claimed currently. The state income tax deduction for dependents and the additional deduction for dependents under six would reduce individual income taxes by approximately \$260 each for a total of \$520. Under these assumptions, the bill would reduce General Fund individual income taxes by approximately \$673 beginning in FY 2024-25 for each woman who is allowed to claim these credits or deductions one tax year earlier because the fetus is not born prior to the end of the calendar year in which the fetal heartbeat is detected.

Overall, the potential expenditure impact will depend greatly on the individual circumstances of each eligible person and as such is undetermined.

Introduced on January 9, 2024

State Expenditure

This bill enacts the South Carolina Pro Birth Accountability Act, which stipulates that a pregnant woman who would be allowed to terminate the pregnancy, but for a law prohibiting abortion upon detection of a fetal heartbeat, is entitled to compensation by the State for that child. For information, in 2022 the births in South Carolina totaled 57,828 according to DHEC vital records, and there were approximately 7,000 abortions performed in the state. The number of women who will receive compensation for a child under this bill is unknown. The following table provides information on the cost of services listed as compensation per claim but may vary greatly depending upon individual circumstances.

Estimated Expenses Per Child				
	Guaranteed Benefits	Annual Average	Number of Years	Total
1	Prenatal, Intrapartal, and Postpartal Care	\$18,865	1	\$18,865
2	Tax Credit/Deductions for Fetus	\$673	1	\$673
3	Nurse-Family Partnership	\$2,400	2.5	\$6,000
4	TANF*	\$3,984	18	\$71,712
4	SNAP*	\$6,420	18	\$115,560
4	WIC	\$2,621	5	\$13,105
5	Child Health Premiums	\$4,353	18	\$78,354
5	Child Basic Dental Premiums	\$165	18	\$2,970
5	Child Vision Premiums	\$87	18	\$1,566
6	529 College Plan (Fully Funded)	\$30,000	18	\$540,000
*Federal program				

Sources:

- 1) <https://www.kff.org/health-costs/issue-brief/health-costs-associated-with-pregnancy-childbirth-and-postpartum-care/>
- 2) RFA calculation
- 3) <https://www.nursefamilypartnership.org/wp-content/uploads/2022/03/NFP-Benefits-and-Costs.pdf>
- 4) DSS
- 5) PEBA
- 6) <https://futurescholar.com/resources/common-questions/>

The total cost for these services per child is at least approximately \$860,000 over an eighteen-year period. Please note, SNAP and TANF are federally funded public assistance programs, and eligibility for these benefits is prescribed under federal law and regulation. For purposes of this analysis, we anticipate the State will cover funding and services provided by these federal programs for those who are ineligible for the federal programs. This analysis does not include

any additional administrative costs for these programs. Further, the total annual expense will depend upon the number of applicants who receive compensation.

This bill also requires the State to pay for funeral costs if either the mother or child dies during the gestational period or during labor and delivery. For information, according to the South Carolina Maternal Morbidity and Mortality Review Committee, in 2020 of the 79 maternal deaths reviewed, 18 were determined to be pregnancy related. The average cost for an adult funeral and burial expenses is approximately \$8,023 as determined by NFDA. There is limited data on fetal funerals and burial costs. Therefore, this amount could differ. Additionally, if the child is born with a congenital abnormality or disability, the State is to cover any medical expenses associated with the care of that abnormality or disability including, but not limited to, costs of hospitalization, therapeutic and ADA-compliant equipment and accommodations, and long-term care and treatment for the life of the child. Further, the State is to cover any medical expenses associated with the woman's disability if a woman becomes disabled as the result of carrying a fetus to term. The cost of such coverage can vary greatly dependent upon the severity of the disability. For reference, DSS estimates the lifetime costs of a quadriplegic are \$4,700,000 if the injury occurs at age 25.

Further, in the case of an unmarried woman, if the biological father willfully accrues more than \$5,000 in child support arrearage, the biological father is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years. DSS notes this could impact a substantial number of child support cases. These incarcerations would also create a reduction in collections that would negatively impact 3 of 5 Federal Performance Measures. South Carolina receives incentive funding from the federal government based upon our performance. It is difficult to determine the amount of incentive funding that South Carolina would lose on an annual basis as there are multiple factors involved. However, if the impact of the bill hindered the ability to meet the federal goal for paternity establishment, South Carolina could be subject to a penalty equal to 1 percent of its TANF block grant, or approximately \$999,000.

Department of Social Services. The bill requires DSS to have a case manager assigned to each woman who completes an affidavit. This case manager must meet with her in person monthly up until the time of birth and a reasonable number of visits after birth. DSS anticipates that 1,819 of women (or 25 percent of the total abortions in South Carolina in 2022) may apply for these benefits each year. DSS estimates that this number of applicants would result in the need for 152.0 FTE Case Managers, 31.0 FTE Team Leaders, 5.0 FTE Team Coordinators, and 16.0 FTE Case Manager Assistants. These 204.0 FTEs would result in recurring salaries of \$10,490,675 and fringe of \$4,825,711. DSS also anticipates an increase of \$1,637,508 in recurring operating expenses and an increase of \$498,780 in nonrecurring operating expenses. DSS also expresses that requiring both participation in NFP and requiring a DSS Case Manager visit once per month is a duplication of resources because NFP nurses visit a family at least once per month and would have much more skill than a case manager to be able to connect the mother to resources she might need. DSS also anticipates an increase in legal expenses in association with the agency being sued for denial of benefits under this bill. While DSS is unsure of the number of claims that may be brought, the agency anticipates the need of an additional \$100,000 annually for increased insurance premiums. Overall, this bill will increase expenses for DSS by \$17,553,000

in FY 2024-25 and \$17,054,000 each year thereafter. The agency will request General Fund appropriations for these expenses.

State Fiscal Accountability Authority. This bill creates a new civil action under the SC Tort Claims Act, which could result in an undetermined increase in the number of civil actions filed in court. SFAA anticipates that this bill will not create any additional administrative expenses. However, due to the possible increased number of claims, this bill could result in an undetermined amount of additional costs to the IRF. The IRF is funded through premium revenues and does not receive any appropriations from the General Fund.

In summary, the overall impact is undetermined as it will depend greatly on each individual's circumstances.

State Revenue

This bill will result in an increase in Other Funds revenue for the IRF due to the increased premiums charged to state agencies to offset the increased expenses associated with the newly created civil action under the SC Tort Claims Act.

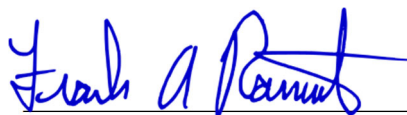
The bill specifies that a woman upon detection of a fetal heartbeat is eligible to claim the fetus as a child for the purposes of any child-related federal or state income tax credits or deductions. The woman would be allowed to claim state tax credits and deductions up to one year earlier as a result. Taxpayers must incur child or dependent care expenses that are necessary for gainful employment pursuant to Internal Revenue Code Section 21 to qualify for the child and dependent care tax credit. Therefore, this provision would not be expected to impact these credits. Additionally, the state earned income tax credit is based on the amount claimed for federal tax purposes. Depending on how this is interpreted, if taxpayers are allowed to recalculate the federal credit for state tax purposes, the earned income tax credit would reduce income taxes by approximately \$153 per taxpayer based on the average claimed currently. The state income tax deduction for dependents and the additional deduction for dependents under six would reduce individual income taxes by approximately \$260 each for a total of \$520. Under these assumptions, the bill would reduce General Fund individual income taxes by approximately \$673 beginning in FY 2024-25 for each woman who is allowed to claim these credits or deductions one tax year earlier because the fetus is not born prior to the end of the calendar year in which the fetal heartbeat is detected. However, the total impact is unknown and will depend on the number of claims.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director