



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. 0975 Introduced on January 18, 2024
Author: Martin
Subject: Vaccines and Public Health
Requestor: Senate Medical Affairs
RFA Analyst(s): Griffith
Impact Date: February 9, 2024

Fiscal Impact Summary

This bill, the Medical Freedom Act, prohibits businesses, non-profit organizations, colleges, schools, and employers from mandating novel vaccines or gene therapy as a precondition for employment, entry into buildings and grounds, attendance, participation, or purchase of receipt of any products and services offered. The bill also creates new offenses that are punishable by a fine or imprisonment, or both.

Additionally, employers are prohibited from taking any adverse pre-employment or employment action against an individual who declines to receive a novel vaccine or gene therapy. An aggrieved employee has the right to apply for and receive unemployment benefits, as well as back pay, front pay, lost wages, consequential damages, emotional damages, court and litigation costs, and attorney fees. An employer who willfully or maliciously discriminates or commits a violation of this provision of the bill shall be liable to the employee or prospective employee for punitive damages in the treble amount of the actual damages awarded.

The bill also specifies that a pharmacist may refuse to fill or refill a prescription when a contradiction is detected in the patient's records, when patterns of narcotic abuse are observed in the patient's records, when the order is incomplete or unclear, or when the pharmacist objects for religious, moral, or ethical reasons pursuant to the Medical Ethics and Diversity Act.

Further, the bill amends the emergency powers of the future Department of Public Health (DPH) and the Department of Labor, Licensing and Regulation (LLR) during a state of public health emergency and changes quarantine requirements during a public health emergency.

The fiscal and operational impact of the repeal of certain health powers cannot be estimated due to the unknown nature of future public health emergencies. The Department of Health and Environmental Control (DHEC) is concerned that limiting the ability of the future DPH to respond to a public health emergency may likely result in costs to the state, as well as a loss of federal funds that could potentially aid the state in an emergency. However, there has not been a recent event with which to estimate the scope of such costs, and, as such, DHEC is unable to provide an estimate of the potential impact to the General Fund and Federal Funds.

This bill will have no fiscal impact on LLR or the boards that license health care providers since the repeal of certain health powers does not operationally or fiscally affect the agency.

This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2022-23, the annual total cost per inmate was \$37,758, of which \$34,570 was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined. We anticipate that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations. We will update this impact statement if Corrections provides a different response.

This bill creates new offenses, which could result in an increase in the number cases handled by the Commission on Indigent Defense. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

The expenditure impact of this bill on the Commission on Prosecution Coordination is pending, contingent upon a response from the agency.

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

This bill may increase applications for unemployment benefits, which are paid from the Unemployment Trust Fund (UTF) administered by the Department of Employment and Workforce (DEW). We anticipate that DEW can manage any increase in claims with existing staff and appropriations. Additionally, we anticipate that the bill will not increase expenditures from the UTF as DEW is required annually to shift unemployment insurance costs in order to maintain minimum reserves needed to withstand a recession. If DEW indicates otherwise, we will update this fiscal impact statement.

Explanation of Fiscal Impact

Introduced on January 18, 2024

State Expenditure

This bill, the Medical Freedom Act, prohibits businesses, non-profit organizations, colleges, schools, and employers from mandating novel vaccines or gene therapy as a precondition for employment, entry into buildings and grounds, attendance, participation, or purchase of receipt of any products and services offered. For a first offense, a person who violates these provisions is guilty of a misdemeanor and, upon conviction, must be fined not more than \$1,000, imprisoned for not more than one year, or both. For a second offense, a violator is guilty of a misdemeanor and, upon conviction, must be fined not more than \$2,500, imprisoned for not

more than three years, or both. A third offense constitutes a felony, and, upon conviction, the violator must be fined not more than \$5,000, imprisoned for not more than five years, or both.

Additionally, employers are prohibited from taking any adverse pre-employment or employment action against an individual who declines to receive a novel vaccine or gene therapy. An aggrieved employee has the right to apply for and receive unemployment benefits, as well as back pay, front pay, lost wages, consequential damages, emotional damages, court and litigation costs, and attorney fees. An employer who willfully or maliciously discriminates or commits a violation of this provision of the bill shall be liable to the employee or prospective employee for punitive damages in the treble amount of the actual damages awarded.

The bill also specifies that a pharmacist may refuse to fill or refill a prescription when a contradiction is detected in the patient's records, when patterns of narcotic abuse are observed in the patient's records, when the order is incomplete or unclear, or when the pharmacist objects for religious, moral, or ethical reasons pursuant to the Medical Ethics and Diversity Act.

Further, the bill amends DPH's and LLR's emergency powers during a state of public health emergency. DPH, in coordination with the appropriate licensing authority under LLR, may not require in state health care providers to assist in the performance of vaccination, treatment, examination, or testing of an individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in SC. In addition, when DPH performs voluntary diagnostic tests during a public health emergency, the tests must be approved by the FDA for accurate detection of the biological agent. Also, a vaccine administered by DPH or any qualified person authorized by DPH must not be a gene therapy.

The bill also changes quarantine requirements during a public health emergency. An asymptomatic quarantined individual must be confined for no more than five days, and an individual who has recovered from the contagious disease must not be separated from quarantined or isolated family members. Further, the bill removes the restriction that only a person authorized by DPH shall enter isolation or quarantine premises. Finally, the bill reduces the penalty of a person subject to isolation or quarantine who fails to comply with DPH's rules and orders from a felony to a misdemeanor and reduces the sentence from a fine of \$1,000, imprisonment of no more than thirty days, or both to a fine of \$200 or imprisonment of no more than thirty days.

Department of Public Health. The fiscal and operational impact of the repeal of certain health powers cannot be estimated due to the unknown nature of future public health emergencies. DHEC is concerned that limiting the ability of the future DPH to respond to a public health emergency may likely result in costs to the state, as well as a loss of federal funds that could potentially aid the state in an emergency. However, there has not been a recent event with which to estimate the scope of such costs, and, as such, DHEC is unable to provide an estimate of the potential impact to the General Fund and Federal Funds.

Department of Labor, Licensing and Regulation. LLR is the licensing authority for health care providers, who can be required to assist in the performance of vaccination, treatment,

examination or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in the state. This bill would eliminate DHEC's authority to compel these health care providers to act. Additionally, the Board of Pharmacy, which is under the administration of LLR, regulates the practice of pharmacy and the licensure of pharmacists in the state. LLR anticipates that the bill will have no expenditure impact on the department or the Board of Pharmacy because the bill does not alter the responsibilities of the department or its boards. Any expenses to implement the provisions of the bill can be managed within existing resources.

Judicial. Judicial reports that implementation of the bill may increase caseloads in summary, general sessions, and common pleas courts, which can be managed using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for Judicial.

Department of Corrections. This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2022-23, the annual total cost per inmate was \$37,758, of which \$34,570 was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined. We anticipate that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations. We will update this impact statement if Corrections provides a different response.

Commission on Prosecution Coordination. The expenditure impact of this bill on the Commission on Prosecution Coordination is pending, contingent upon a response.

Commission on Indigent Defense. This bill creates new offenses, which could result in an increase in the number cases handled by the Commission on Indigent Defense. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

Department of Employment and Workforce. This bill may increase applications for unemployment benefits, which are paid from the UTF administered by DEW. We anticipate that DEW can manage any increase in claims with existing staff and appropriations. Additionally, we anticipate that the bill will not increase expenditures from the UTF as DEW is required annually to shift unemployment insurance costs in order to maintain minimum reserves needed to withstand a recession. If DEW indicates otherwise, we will update this fiscal impact statement.

State Revenue

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



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